

## Nays—11

Aikin	Moffett
Chadick	Moore
Formby	Shivers
Isbell	Sulak
Lovelady	Van Zandt
Metcalf	

## Absent

Beck	Weinert
Spears	

## Absent—Excused

Smith	Winfield
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The Senate, accordingly, at 5:05 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

## EIGHTY-SIXTH DAY

(Thursday, July 3, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Mauritz
Beck	Metcalf
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

## Absent—Excused

Hill	Smith
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A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Fain and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## Leaves of Absence Granted

Senator Hill was granted leave of absence for today on account of important business, on motion of Senator Cotten.

Senator Smith was granted leave of absence for today on account of important business, on motion of Senator Moffett.

## Report of Standing Committee

Senator Kelley submitted the following report:

Austin, Texas,  
July 2, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

H. B. No. 1104, A bill to be entitled "An Act to empower any city or town in this State now or hereafter incorporated under the General Laws of this State, and not having a special charter, and not having a charter adopted or amended under the home rule provisions of the Constitution and Statutes of this State, etc.; and declaring an emergency."

Have had same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HILL, Chairman.

## Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed notwithstanding the veto of the Governor by a vote of 104 ayes, 12 noes:

H. B. No. 971, A bill to be entitled "An Act authorizing cities and towns eligible under the terms of this Act, to fund certain indebtedness outstanding on the effective date of this Act; prescribing the method and procedure for issuance of funding or re-funding bonds, and which cities or

town cannot derive revenues for general fund operating expenses from any publicly owned utilities at this time; validating such outstanding indebtedness not in litigation at the time this Act becomes effective; providing that this Act shall not increase the debt burden of any such city or town; providing that this Act shall be cumulative of all other Acts, but that its provisions shall prevail in the event of conflict with other laws; enacting provisions incident to and relating to the subject; and declaring an emergency."

The House has concurred in Senate amendments to H. B. No. 1068 by a vote of 121 yeas, 3 noes.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Senate Resolution 181

Senator Kelley offered the following resolution:

Whereas, It has been the custom and practice of the Board of Control to discontinue the operation of the Capitol elevator service at nights and on Sundays and holidays after the adjournment of the Legislature; and

Whereas, Many State offices and appellate courts are located on the upper floors of the Capitol Building, and the work of many departments and courts located thereon has greatly increased, thereby necessitating work of officers, members of the courts and employees at night, on Sundays and holidays; and

Whereas, A large number of citizens of Texas, as well as tourists, visit the Capitol daily and especially on Sundays and holidays, for whom this service would be a convenience; and

Whereas, By providing this service employment would be extended to University students who are now and who may be engaged in this work and thus assist such students to pursue their education; now, therefore, be it

Resolved by the Senate of Texas, That we hereby recommend and suggest to the Board of Control that the necessary steps be taken to continue the operation of the Capitol elevator service at nights, on Sundays and holidays throughout the year.

The resolution was read, and by unanimous consent, it was considered and adopted at this time.

#### Senate Resolution 183

Senator Mauritz offered the following resolution:

Whereas, The Hon. Morris Roberts a former distinguished member of this Senate is in the gallery; and

Whereas, This is the last day of this Session and the Hon. Morris Roberts is beloved and respected by every member of this body, and it would be happy to have the privilege of his association; therefore, be it

Resolved, That the Hon. Morris Roberts be granted the privileges of the floor for the day.

The resolution was read and, by unanimous consent, it was considered and adopted at this time.

#### Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 288, Suspending Joint Rules to permit the Senate to take up and consider through final passage, H. B. No. 1104.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Bill 971 Passed over Governor's Veto

Senator Weinert moved that H. B. No. 971, vetoed by the Governor and passed by the House notwithstanding the objections of the Governor, be now reconsidered and passed by the Senate, notwithstanding the Governor's objections thereto and his veto thereof.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hazlewood
Beck	Isbell
Brownlee	Kelley
Chadick	Lanning
Cotten	Lemens
Fain	Lovelady
Formby	Martin
Graves	Mauritz

Metcalf  
Moffett  
Ramsey  
Shivers  
Spears  
Stone

Sulak  
Van Zandt  
Vick  
Weinert  
Winfield  
York

Absent

Moore

Absent—Excused

Hill

Smith

### Bills and Resolution Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills and resolution:

S. B. No. 166, A bill to be entitled "An Act to amend Chapter 160, page 406, Acts Regular Session of the Forty-third Legislature, as amended by S. B. No. 99, Chapter 12, page 33, Acts Regular Session of the Forty-fourth Legislature, as amended by H. B. No. 135, Chapter 31, page 90, Acts Regular Session of the Forty-fourth Legislature; and declaring an emergency."

S. B. No. 498, A bill to be entitled "An Act amending H. B. No. 271, which was passed by the Forty-seventh Legislature, 1941, which became effective April 18, 1941, for the purpose of correcting a clerical error made in said bill; and declaring an emergency."

S. B. No. 505, A bill to be entitled "An Act to aid Wise County, Texas, in the procuring of land, laying out constructing and reconstructing public roads and highways and bridges in the various commissioners' precincts of said county, to aid in projects sponsored by Wise County, Texas, in cooperation with Federal Works Progress Administration or its successors and for general relief and rehabilitation purposes; authorizing the Commissioners' Court of Wise County, Texas, to issue short term bonds, limiting the amount thereof and the interest to be paid thereon; providing a penalty for misappropriation of the moneys donated; defining certain conditions within said county to constitute a public calamity and declaring an emergency; providing that if any Section, subsection, paragraph, clause, sentence, or word of this Act or the application thereof to any person or circumstance is held invalid such holding shall not affect the va-

lidity of the remaining provisions of this Act, the Legislature declaring that it would have passed such remaining portions, despite any partial invalidity."

S. B. No. 507, A bill to be entitled "An Act amending S. B. No. 402 of this the Forty-seventh Legislature to provide that where United States Aid is received on any project for eleemosynary institutions, the completion of which extends beyond the end of the fiscal year for which monies have been appropriated, that any unexpended appropriated balance may be used during the next fiscal year to complete the project; and declaring an emergency."

S. C. R. No. 66, Relating to a well considered plan for providing additional space, in keeping with the actual needs of State departments.

### Report of Conference Committee on House Bill 796

The President laid before the Senate as unfinished business the report of the Conference Committee on H. B. No. 796, relating to enforcement of liquor laws; with motion by Senator Moffett to adopt the report pending.

Senator Moffett moved the previous question on the motion to adopt the report, and the motion for the previous question was duly seconded.

The Senate refused to order the main question at this time by the following vote:

#### Yeas—10

Chadick	Moffett
Fain	Shivers
Kelley	Spears
Lovelady	Van Zandt
Metcalf	Weinert

#### Nays—16

Aikin	Martin
Brownlee	Mauritz
Cotten	Moore
Formby	Stone
Graves	Sulak
Isbell	Vick
Lanning	Winfield
Lemens	York

#### Absent

Beck	Ramsey
Hazlewood	

#### Absent—Excused

Hill	Smith
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Question—Shall the motion to adopt the report prevail?

(President Pro Tempore Cotton in the Chair.)

### Senate Concurrent Resolution 87

Senator Moore, by unanimous consent, offered the following resolution at this time:

Senate Concurrent Resolution No. 87, Authorizing correction in enrolled copy of H. B. No. 831.

Whereas, The conference report of H. B. No. 831 inadvertently affects H. B. No. 1064, Acts Regular Session, Forty-sixth Legislature; and

Whereas, Such is not the intention of the Conference Committee or the Legislature; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, That the Enrolling Clerk of the House is instructed to add the following language at the end of Section 7:

"provided, however, that nothing in this Act shall apply to cities covered by H. B. No. 1064, Acts Regular Session, Forty-sixth Legislature, and nothing in this Act shall change, amend, alter, or modify such H. B. No. 1064, Acts Regular Session, Forty-sixth Legislature."

By unanimous consent, the resolution was considered and adopted at this time.

### Report of Conference Committee on House Bill 166

Senator Lemens, by unanimous consent, submitted the following report:

Austin, Texas,  
July 1, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 166, have met and beg leave to recommend that H. B. No. 166 be passed in the form hereto attached.

Respectfully submitted,

LEMENS,  
FAIN,  
BROWNLEE,

On the part of the Senate;

KINARD,  
LOCK,  
CARLTON,  
JONES,  
DICKSON,

On the part of the House.

H. B. No. 166, A bill to be entitled "An Act amending Article 4557, Chapter 10, Title 71, Revised Civil Statutes of Texas, 1925, as amended, and Articles 4559, 4561, 4562, 4563, 4564, 4565 and 4565-a, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, and amending Chapter 5, Title 12 of the Penal Code of Texas, 1925, as amended, by amending Article 736, requiring all persons desiring to practice optometry in Texas to pass an examination; providing for method of giving examinations; providing for registration and display of license; providing grounds for refusal of and cancellation of licenses; prescribing examination fee and renewal fee and disbursement thereof, and method of obtaining duplicate licenses; defining terms; specifying acts constituting penal offenses and providing penalty therefor; declaring legislative intent; repealing all laws and parts of laws in conflict with this Act and declaring that the remainder of the Act shall not be affected by the unconstitutionality of any part thereof; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Article 4557, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4557. Every person desiring to practice optometry in the State of Texas shall be required to pass the examination given by the Texas State Board of Examiners in Optometry. The applicant shall make application, furnishing to the Secretary of the Board on forms to be furnished by the Board satisfactory sworn evidence that he has attained the age of twenty-one (21) years, is of good moral character, is a citizen of the United States, and has at least graduated from a first grade high school, or has a preliminary education equivalent to permit him to matriculate in the University of Texas, and that he has attended and graduated from a reputable University or College of Optometry which meets with the requirements of the Board, and such other information as the Board may deem necessary for the enforcement of this Act. A University or School of Optometry is reputable whose entrance requirements and course of instruction are as

high as those adopted by the better class of Universities and Schools of Optometry, and whose course of instruction shall be the equivalent of not less than four terms of eight months each, and approved by the Board."

Sec. 2. That Article 4559, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4559. Each applicant shall be given due notice of the date and place of examination. All examinations shall be conducted in writing and by such other means as the Board shall determine adequate to ascertain the qualifications of applicants, and in such manner as shall be entirely fair and impartial to all applicants. All applicants examined at the same time shall be given the same written examinations. Every applicant successfully passing the examination and meeting all requirements of the Board shall be registered by the Board as possessing the qualifications required by this law, and shall receive from said Board a license to practice optometry in this State."

Sec. 3. That Article 4561, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4561. It shall be unlawful for any person to practice optometry within the limits of this State who has not registered and recorded his license in the office of the county clerk of the county in which he resides, and in each county in which he practices, together with his age, post office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the county clerk upon the license. The absence of record of such license in the office of the county clerk shall be prima facie evidence of the lack of the possession of such license to practice optometry."

Sec. 4. That Article 4562, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4562. Each county clerk in this State shall purchase a book of suitable size, to be known as the 'Optometry Register' of such county, and set apart at least one full page for the registration of each optome-

trist, and record in said optometry register the name and record of each optometrist who possesses for record a license or certificate issued by the State Board of Examiners in Optometry. The county clerk shall receive One (\$1.00) Dollar for each document registered, as provided in this Act, which shall be his full compensation for all duties herein required. When an optometrist shall have his license revoked, suspended, or cancelled, said county clerk, upon being notified by the Board, shall make a note of the fact beneath the record in the optometry register, which entry shall close the record and be prima facie evidence of the fact that the license has been so cancelled, suspended or revoked. The county clerk of each county shall, upon the request of the Secretary of the Board, certify to the Board of Examiners a correct list of the optometrists then registered in the county, together with such other information as the Board may require."

Sec. 5. That Article 4563, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4563. The Texas State Board of Examiners may, in its discretion, refuse to issue a license to any applicant and may cancel, revoke or suspend the operation of any license by it granted for any of the following reasons:

(a). That said applicant or licensee is guilty of gross immorality;

(b). That said applicant or licensee is guilty of any fraud, deceit or misrepresentation in the practice of optometry, or in his seeking admission to such practice;

(c). That said applicant or licensee is unfit or incompetent by reason of negligence;

(d). That said applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;

(e). That said applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having similar effect, or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;

(f). That said licensee has directly or indirectly employed, hired, procured

or induced a person not licensed to practice optometry in this State, to so practice;

(g). That said licensee, directly or indirectly, aids or abets in the practice of optometry any person not duly licensed to practice under this Act;

(h). That said licensee, directly or indirectly, employs solicitors, canvassers or agents for the purpose of obtaining patronage;

(i). That said licensee lends, leases, rents or in any other manner places his license at the disposal of or in the service of any person not licensed to practice optometry in this State;

(j). That said applicant or licensee has wilfully or repeatedly violated any of the provisions of this Act;

(k). That said licensee has split fees derived from professional services;

(l). That said licensee professes by any means to perform his services in a superior manner, or implies, directly or indirectly, to the public professional superiority;

(m). That said licensee advertises prices or indulges in false or untrue advertising of a character which would tend to mislead the public;

(n). That said licensee practices or holds himself out to practice optometry under any name other than his own proper name, as is set forth in his license; provided, however, that this shall not prevent two or more persons duly licensed under this Act from practicing optometry in the same offices as associates in their own name, as stated in the individual licenses issued to them.

Proceedings under this Article shall be begun by filing charges with the Board in writing and under oath. Said charges may be made by any person or persons. The President of the Board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the

charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the last date of the publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, to produce witnesses and evidence on his behalf, to cross-examine witnesses and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits.

Any person whose license to practice optometry has been refused or has been revoked or suspended by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to any of the district courts of the county of his residence, but the decision of the Board shall not be stayed or enjoined except upon application to such district court after notice to the Board.

Upon application, the Board may reissue a license to practice optometry to a person whose license has been revoked. Application shall be made in such manner and form as the Board may require.

Provided, however, that nothing in this law shall be construed to prevent the administrator or executor of the estate of a deceased optometrist from employing a licensed optometrist to carry on the practice of such deceased during the administration of such estate, nor to prevent a licensed optometrist from working for such person during the administration of the estate when the legal representative thereof has been authorized by the county judge to continue the operation of such practice."

Sec. 6. That Article 4564, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4564. Every person practicing optometry in this State shall display his license and renewal certificate in a conspicuous place in the office where he practices optometry, and whenever required exhibit such license or certificate to said Board, or its authorized representative."

Sec. 7. That Article 4565, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, be

amended so as to hereafter read as follows:

"Article 4565. The Board shall charge a fee of Thirty-five (\$35.00) Dollars for examining an applicant for license, which fee must accompany the application. If the applicant who, because of failure to pass the examination, be refused a license, he shall be permitted to take a second examination without additional fee, provided the second examination is taken within a period of two (2) years. The fee for issuing a license shall be Ten (\$10.00) Dollars.

The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder shall be applied, by order of the Board, to compensate members of said Board. The compensation of the members of the Board shall be a per diem of Ten (\$10.00) Dollars per day for each day they are actually engaged in performing their duties; provided, however, they shall not draw compensation for more than sixty (60) days in any one calendar year, and in addition to the per diem provided for herein, they shall be entitled to their actual traveling expenses to and from Board meetings. Each Board member shall make out, under oath, a complete statement of the number of days engaged and the amount of his expenses when presenting same for payment. On August 31 of each year, all money received from annual renewal fees in excess of Ten Thousand (\$10,000) Dollars remaining in said fund derived from said annual renewal fees shall be deposited in the General Revenue Fund of the State Treasury, and no appropriation shall ever be made from the State Treasury for any expenditure made necessary by this law."

Sec. 8. That Article 4565-a, Chapter 10, Title 71, Revised Civil Statutes of Texas, 1925, as amended, be amended so as to hereafter read as follows:

"Article 4565-a. On or before the first day of January of each year, every licensed optometrist in this State shall pay to the Secretary-Treasurer of the Texas State Board of Examiners in Optometry an annual renewal fee of Ten (\$10.00) Dollars for the renewal of his license to practice optometry for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal

certificate bearing the number of his license, the year for which renewed, and such other information for the records of the Board as said Board may deem necessary. When an optometrist shall fail to pay his annual renewal fee by March 1 of each year, it shall be the duty of the Board to notify such optometrist by registered mail at his last known address, that his license has been suspended. The Board shall notify the county clerk of the county in which such license may have been recorded of such suspension, and such clerk, upon receipt of notice from the Secretary of the Board, shall enter upon the optometry register of such county the fact that such license has been suspended for non-payment of annual renewal fees, and shall notify the Board in writing that such entry has been made. Practicing optometry without an annual renewal certificate, as provided herein, shall have the same force and effect, and be subject to all penalties of practicing optometry without a license. After the Board has declared a license void, as provided for in this Article, the Board may thereafter refuse to issue a new license until such optometrist whose license has been declared void for non-payment of annual renewal fee has paid all past due renewal fees. If any license issued under this law shall be lost or destroyed, the holder of said license shall make an affidavit of its loss or destruction, and that he is the same person to whom such license was issued, and such other information as may be desired by the Board, and shall, upon payment of a fee of Two and 50/100 (\$2.50) Dollars, be granted a license under this law."

Sec. 9. That Article 736, Chapter 5, Title 12 of the Penal Code of Texas, as amended, be amended so as to hereafter read as follows:

"Article 736. Every person practicing optometry in this State shall display his license and certificate in a conspicuous place in the office where he practices optometry, and whenever required exhibit same to the Texas State Board of Examiners in Optometry, or its authorized representative. Provided, further, than anyone who owns, maintains or operates any office or place of business where he employs or engages under any kind of contract whatsoever any other person or persons to practice optometry, as defined in this Act, shall be deemed to be practicing optometry



himself, and shall be required to be duly licensed to practice optometry, as defined in this Act, and shall be subject to all of the provisions of this Act, even though the person or persons so employed or engaged by him shall be duly licensed to practice optometry, as defined in this Act. Provided, however, it shall not be construed as a violation of this Act for any optometrist to lease space from an establishment on a percentage or gross receipts basis, or to sell, transfer or assign accounts receivable."

Sec. 10. All laws or parts of laws in conflict with this Act shall be repealed.

Sec. 11. If any article, Section, subsection, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each Section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses or phrases thereof are declared unconstitutional.

Sec. 12. The fact that the existing law does not provide an adequate method of regulation and enforcement of the provisions of this Act, and the further fact that the calendars of the Senate and the House are now in a crowded condition, and for the protection of public health and public welfare, create an emergency and an imperative public necessity that the constitutional rule requiring that bills be read on three separate days in each House be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Lemens, the report was adopted.

#### House Concurrent Resolution 164

The President Pro Tempore laid before the Senate and had read (the resolution having been received from the House Monday, May 26, 1941):

H. C. R. No. 164, Granting permission to the District Judges to be absent from the State of Texas at such intervals and for such time as they may see fit and proper during the years 1941 and 1942, taking into consideration the condition of the dockets of said Courts.

On motion of Senator Spears and by unanimous consent, the resolution was considered and adopted at this time.

#### House Concurrent Resolution 278

On motion of Senator Isbell and by unanimous consent, the regular order of business was suspended to permit consideration of H. C. R. No. 278 at this time.

The President Pro Tempore laid before the Senate:

H. C. R. No. 278, Granting certain authority to Board of Control with respect to maintenance of eleemosynary institutions.

The resolution was read and was adopted.

#### House Concurrent Resolution 99

The President Pro Tempore laid before the Senate and had read (the resolution having been received from the House April 24, 1941):

H. C. R. No. 99, Making appropriation to purchase a portrait of Governor W. Lee O'Daniel.

On motion of Senator Aikin and by unanimous consent, the resolution was considered and adopted at this time.

#### Message from the House

A Clerk from the House was recognized by the President Pro Tempore to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

The House has passed notwithstanding the veto of the Governor, by a vote of 91 ayes, 19 nays:

H. B. No. 1084, A bill to be entitled "An Act to amend Chapter 63, Acts of 1933, Forty-third Legislature, First Called Session, page 169, as amended by Chapter 17, Acts of 1934, Forty-third Legislature, Fourth Called Session, page 47, so as to change Section 3 of said Chapter 63 so that the same may hereafter provide, in addition to its other provisions, that the Board of Directors of the Lower Neches Valley Authority shall consist of nine instead of seven members, all of whom shall be freehold property tax payers and legal voters of the State of



Texas, and providing that such nine directors shall be appointed by the State Board of Water Engineers, three members thereof to be appointed for a term of two years, three members thereof to be appointed for a term of four years and three members thereof to be appointed for a term of six years; and to change Section 4 of said Chapter 63 so that the same may hereafter provide, in addition to its other provisions, that the Board of Directors shall organize by electing one of their members president, one vice-president, one treasurer and one secretary, and providing that five directors shall constitute a quorum at any meeting, and a concurrence of majority of those present shall be sufficient in all matters pertaining to the business of the district except the letting of construction contracts and the authorization of issuance of warrants paying therefor, which shall require the concurrence of seven directors; and to change Section 16 of said Chapter 63 so that in addition to its other provisions, it will hereafter provide that for any corporate purpose said district may borrow money from the Federal Emergency Administration of Public Works of the United States or from any other department or agency of the United States, or from any other source, and in evidence thereof may issue the notes, warrants, certificates of indebtedness, bonds or other forms of obligations of such District; and to change Section 23 of said Chapter 63 so that the same shall hereafter provide, in addition to its other provisions, that the Board of Directors may in its discretion have executed in favor of the holders of the District's obligations an indenture mortgaging and encumbering the improvements, facilities and properties acquired with the proceeds of the sale of such obligations, and/or all of the improvements, facilities and properties of the District, and that such indenture may likewise mortgage and encumber the revenues to be derived from the operation of such improvements, facilities and properties; and declaring an emergency."

The House has adopted the following resolutions:

H. C. R. No. 291, Suspending Joint Rules to permit House to consider S. B. No. 183.

H. C. R. No. 290, Granting Senate permission to consider H. B. No. 11 and H. B. No. 1107.

H. C. R. No. 292, Suspending Joint Rules to permit Senate to consider H. B. No. 1096.

H. C. R. No. 293, Suspending rules to permit House to consider S. B. No. 175 for final passage.

H. C. R. No. 295, Suspending Joint Rules to permit Senate to take up H. B. No. 1095 for consideration of final passage.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

(President in the Chair.)

#### Bills and Resolutions Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

H. B. No. 29, A bill to be entitled "An Act to amend Chapter 5, Title 14, of the Penal Code of Texas of 1925, as amended, by amending Articles 1037 and 1037a relating to weights and measures, and by adding the new Articles numbered as follows: Articles 1037b, 1037c, 1037d, 1037e, 1037f, 1037g, 1037h, 1037i, and 1037j; prohibiting the sale, use, or possession of false weights, measures, or weighing or measuring devices and weights, measures, or weighing or measuring devices which have not been sealed by a weights and measures official; prohibiting the sale and use of devices which have been condemned for repairs; prohibiting the sale of commodities contrary to law; requiring commodities to be sold by weight, measure, or numerical count; regulating the packing and marking of packages and containers, etc.; and declaring an emergency."

H. B. No. 1047, A bill to be entitled "An Act providing for the extension of the primary term of oil, gas or mineral leases heretofore or hereafter issued by the Commissioners of the General Land Office which lease has been, is, or which may hereafter become involved in litigation relating to its validity or to the authority of the Commissioner of the General Land Office to lease the land covered thereby, for a period of five (5) years; providing the terms and conditions upon which such lease may be extended; providing the time for the application for such extension; providing for the exploration and development of lands covered in the lease during the pendency of litigation, un-

less such exploration and development be enjoined by a court of competent jurisdiction without prejudice to the right of the owner of such lease to recover his reasonable costs of such development and the exploration from the production from lands covered by the lease or from the proceeds of sale of production therefrom in case such litigation is finally adjudicated adversely to the owner of the lease; and declaring an emergency."

H. B. No. 1068, A bill to be entitled "An Act to amend Article X of H. B. No. 8 passed by the Regular Session of the Forty-seventh Legislature, levying a gross receipts tax upon the retail sales of new radios; levying a stamp tax upon the sale of cosmetics and playing cards and requiring the Comptroller to control the purchase and sale of such stamps; etc.; and declaring an emergency."

H. C. R. No. 282, Authorizing the loan of guard wire to Malakoff Public School District.

H. C. R. No. 283, Authorizing the Board of Control to execute easement in certain State property to the State Highway Department.

H. C. R. No. 284, Authorizing Mrs. R. E. Benton and Mrs. Edna Lyon to sue the State.

#### Election of President Pro Tempore Ad Interim

At 12:00 o'clock m., the President announced the election of President Pro Tempore of the Senate ad interim as the next business in order.

Senator Moore nominated Hon. R. A. Weinert of Guadalupe County to be President Pro Tempore of the Senate ad interim.

Senator Van Zandt seconded the nomination of Hon. R. A. Weinert.

Senator Cotten seconded the nomination of Hon. R. A. Weinert.

Senator Martin seconded the nomination of Hon. R. A. Weinert.

Senator Metcalfe seconded the nomination of Hon. R. A. Weinert.

Senator Mauritz seconded the nomination of Hon. R. A. Weinert.

Senator Kelley seconded the nomination of Hon. R. A. Weinert.

The President appointed Senators Winfield, Mauritz and Fain to take up and count the ballots.

The ballots were taken up and counted.

The President announced that Hon. R. A. Weinert had received 28 votes and declared him duly elected President Pro Tempore of the Senate ad interim.

Senators Winfield, Mauritz and Fain then escorted Hon. R. A. Weinert to the President's desk, where he took the constitutional oath of office, which was administered by the President.

The President presented Senator Winfield, who in turn, presented Hon. R. A. Weinert to the Senate.

President Pro Tempore Weinert then addressed the Senate briefly and thanked the Senators for the honor conferred upon him.

#### Report of Conference Committee on Senate Bill 119

Senator Van Zandt submitted the following report:

Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on S. B. No. 119, have met and beg leave to recommend that S. B. No. 119 be passed in the form hereto attached.

Respectfully submitted,

VAN ZANDT,  
BROWNLEE,  
BECK,  
FORMBY,  
KELLEY,

On the part of the Senate;

STANFORD,  
McGLASSON,  
CARTER,  
LOCK,  
CROSTHWAIT,

On the part of the House.

S. B. No. 119, A bill to be entitled "An Act amending Article 1645, Revised Civil Statutes of Texas, 1925, as amended by Acts 1927, Fortieth Legislature, First Called Session, page 104, Chapter 35, Section 1; as amended by Acts 1929, Forty-first Legislature, First Called Session, page 62, Chapter 28, Section 1; as amended by Acts 1931; Forty-second Legislature, Second Called Session, page 29,

Chapter 15, Section 1; as amended by Acts 1937, Forty-fifth Legislature, First Called Session, page 1826, Chapter 45, Section 3; as amended by Acts 1939, Forty-sixth Legislature, Special Laws, page 595, Section 1, providing for the appointment of county auditors in certain counties; providing salaries for such county auditors within maximum and minimum limitations, and the method of fixing and payment of same; providing that any increase in the salary of any such county auditor, over and above the annual salary allowed such county auditor under the General Law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected or may be affected by the provisions of this Act; providing that such consent and approval of such commissioners' court shall be made by order of such court and recorded in the minutes of the commissioners' court of such county; providing for the repeal of all laws or parts of laws in conflict herewith with certain exceptions; and amending Article 1646 of the Revised Civil Statutes of Texas, 1925, as amended by Acts 1929, Forty-first Legislature, page 687, Chapter 308, Section 1; providing for the appointment of county auditors in certain counties; providing salaries for such county auditors within maximum and minimum limitations, and the method of fixing and payment of same; providing order fixing salary to be recorded in the minutes of the District Court of the county and to be certified to commissioners' court for recording in its minutes; providing that any increase in the salary of any such county auditor, over and above the annual salary allowed such county auditor under the General Law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected or may be affected by the provisions of this Act; providing that such consent and approval of such commissioners' court shall be made by order of such court and recorded in the minutes of the commissioners' court of such county; providing said District Judge or District Judges shall have the power to discontinue services of such auditor after expiration

of one year from such appointment in certain instances; providing for the repeal of all laws or parts of laws in conflict herewith with certain exceptions; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Article 1645 of the Revised Civil Statutes of Texas, 1925, as amended by Acts 1927, Fortieth Legislature, First Called Session, page 104, Chapter 35, Section 1; as amended by Acts 1929, Forty-first Legislature, First Called Session, page 62, Chapter 28, Section 1; as amended by Acts 1931, Forty-second Legislature, Second Called Session, page 29, Chapter 15, Section 1; as amended by Acts 1937, Forty-fifth Legislature, First Called Session, page 1826, Chapter 45, Section 3; as amended by Acts 1939, Forty-sixth Legislature, Special Laws, page 595, Section 1, be and the same is hereby amended so as to hereafter read as follows:

"Article 1645. In any county having a population of thirty-five thousand (35,000) inhabitants, or over, according to the last preceding Federal census, or having a tax valuation of Fifteen Million (\$15,000,000.00) Dollars or over, according to the last approved tax roll, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be county auditor, who shall hold his office for two (2) years and who shall receive as compensation for his services to the county as such county auditor, an annual salary of not more than the annual salary allowed or paid the assessor and collector of taxes in his county, and not less than the annual salary allowed such county auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the county auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of such county auditor shall be made by order and recorded in the minutes of the District Court of the county, and the clerk thereof shall certify the same for observance to the commissioners' court, which shall cause the same to be re-

corded in its minutes; after the salary of the county auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county. Provided however, any increase in the salary of any such county auditor, over and above the annual salary allowed such county auditor under the General Law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected or may be affected by the provisions of this Act; such consent and approval of such commissioners' court shall be made by order of such court and recorded in the minutes of the commissioners' court of such county.

Sec. 2. That Article 1646 of the Revised Civil Statutes of Texas, 1925, as amended by Acts 1929, Forty-first Legislature, page 687, Chapter 308, Section 1, be, and the same is hereby amended so as to hereafter read as follows:

"Article 1646. When the commissioners' court of a county not mentioned and enumerated in the preceding Article shall determine that an auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said court fully setting out the reason for and necessity of an auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a county auditor as provided in the preceding Article, who shall qualify and perform all the duties required of county auditors by the laws of this State, and who shall receive as compensation for his services as county auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the assessor and collector of taxes in his county, and not less than the annual salary allowed such county auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the county auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to

be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the county auditor shall be made by order and recorded in the minutes of the District Court of the county, and the clerk thereof shall certify the same for observance to the commissioners' court which shall cause the same to be recorded in its minutes; after the salary of the county auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county; provided, however, any increase in the salary of any such county auditor, over and above the annual salary allowed such county auditor under the General Law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the commissioners' court of the county whose county auditor is affected or may be affected by the provisions of this Act; such consent and approval of such commissioners' court shall be made by order of such court and recorded in the minutes of the commissioners' court of such county. Provided, said District Judge or District Judges shall have the power to discontinue the services of a county auditor, as provided for in this Article, at any time after the expiration of one year from the appointment, when it is clearly shown that such auditor is not a public necessity, and his services are not commensurate with his salary."

Sec. 3. All laws or parts of laws which are in conflict herewith are hereby expressly repealed; provided, however, that this Act shall not in any way repeal or affect S. B. No. 173, passed at the Regular Session of the Forty-seventh Legislature, 1941, and provided, further, that this Act shall not in any way repeal or affect Sections 1 and 2, Chapter 81, Acts of the Regular Session of the Forty-fifth Legislature, 1937, page 151 of Article 1672, Revised Civil Statutes of 1925, or Article 8245, Revised Civil Statutes of 1925, as amended by Section 1 of Chapter 119, Acts of the Regular Session, Forty-fourth Legislature.

Sec. 4. The fact that there are now many laws on the subject of the salaries of county auditors caused by various amendments to said Articles

1645 and 1646, and the further fact that it would be desirable and advantageous to the several counties that all county auditors be placed under one General Law, creates an emergency and an imperative public necessity that the Constitutional Rule requiring that bills shall be read on three separate days in each House be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Senator Van Zandt moved that the report be adopted.

Question—Shall the motion to adopt the report prevail?

#### Recess

On motion of Senator Mauritz, the Senate, at 12:50 o'clock p. m., took recess to 3:00 o'clock p. m. today.

#### Afternoon Session

The Senate met at 3:00 o'clock p. m. and was called to order by the President.

#### Report of Conference Committee on House Bill 796

The Senate resumed consideration of the report of the Conference Committee on H. B. No. 796, known as the liquor control bill; with motion by Senator Moffett to adopt the report pending.

Question—Shall the motion to adopt the report prevail?

#### Conference Committee on House Bill 682

Senator Kelley called up from the President's table, for consideration at this time, the request of the House for a Conference Committee on H. B. No. 682.

Senator Kelley moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Kelley, Aikin, Beck, Metcalfe and Vick.

#### House Concurrent Resolution 295

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 295, Authorizing the Senate to consider H. B. No. 1095 today.

By unanimous consent the resolution was considered and adopted at this time.

#### Report of Conference Committee on Senate Bill 38

Senator Fain submitted the following report of the Conference Committee on S. B. No. 38:

Committee Room,  
Austin, Texas,  
July 2, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the House and the Senate on S. B. No. 38, beg leave to report that we have considered the same and recommend that it do pass in the form as attached hereto.

Respectfully submitted,

FAIN,  
VICK,  
ISELL,  
MARTIN,

On the part of the Senate;

KELLY,  
HENDERSON,  
PEVEHOUSE,

On the part of the House.

S. B. No. 38, A bill to be entitled "An Act to provide for oath of allegiance for certain persons and to provide further safeguards for public educational funds; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That on and after the date this Act becomes effective, no public funds may be paid to any person as a teacher, instructor, visiting instructor, or other employee in, for or connected with any tax-supported school, college, university or other tax-supported institution of learning in this State, unless and until such person shall have taken the oath of office required to be taken by members of the Legislature and all other officers, as provided in Article XVI, Section 1, as amended by amendment adopted November 8, 1939.

Sec. 2. Exempting foreign visiting instructors, refugees and political

refugees from conquered countries from the provisions set out in Section 1 of this Act, and providing that such foreign visiting instructors, refugees and political refugees from conquered countries shall file an affidavit, on form to be prescribed by the Attorney General of the State of Texas, stating, among other things, that they are not members of the Communist, Fascist or Nazi Parties, nor members of any Bund, or any affiliated organization, and further stating that they will not engage in any un-American activities, nor teach any doctrines contrary to the Constitution and Laws of the United States of America or of the State of Texas.

Sec. 3. That any teacher or instructor of any tax-supported school, college, university or other institution of learning in this State who shall have been found guilty of openly advocating doctrines which seek to undermine or overthrow by force or violence the Republican or Democratic Forms of Governments in the United States, or which in any way seek to establish a government that does not rest upon the fundamental principle of the consent of the governed, upon and after a full hearing by the employing or appointing authority of such teacher or instructor, shall be dismissed from such service.

Sec. 4. The fact that much of the world is in a state of war, that fifth column enemies of America are openly declared to be working in our country, and subversive teachings are a threat and actual danger to our public educational funds and our government and nation as a whole, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Fain, the report was adopted.

#### House Concurrent Resolution 288

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 288, Authorizing the Senate to consider H. B. No. 1104 today.

On motion of Senator Kelley, and by unanimous consent, the resolution was considered and adopted at this time.

#### Executive Session

At 3:25 o'clock p. m., the Senate went into executive session to consider nominations of the Governor heretofore submitted to the Senate.

#### After Executive Session

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk that the following reports had been adopted by the Senate:

Committee Room,  
Austin, Texas,  
July 1, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a member of the State Board of Embalming for six year term expiring May 31, 1947:

C. B. Cook, of Austin, Travis County, (reappointment).

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
July 1, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a member of the Board of Medical Examiners for six year term expiring April 13, 1947:

Dr. Sam F. Sparks, of Dallas, Dallas County (to succeed Dr. R. H. Peterson).

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
July 1, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be a member of the Library and Historical Commission to fill the unexpired term of Miss Emma K. Burleson, deceased, term to expire September 28, 1943:

Mrs. H. Y. Benedict, of Austin, Travis County.

Have had the same under consideration, and do recommend that she be in all things confirmed.

MARTIN, Chairman.

The President called the Senate to order as in legislative session at 4:45 o'clock p. m.

#### Report of Conference Committee on Senate Bill 119 Adopted

By unanimous consent, the Senate, at this time, resumed consideration of the report of the Conference Committee on S. B. No. 119, with motion by Senator Van Zandt to adopt the report pending.

The motion to adopt the report prevailed by the following vote:

#### Yeas—24

Beck	Mauritz
Brownlee	Metcalf
Chadick	Moore
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Kelley	Van Zandt
Lanning	Vick
Lemens	Weinert
Lovelady	Winfield
Martin	York

#### Nays—3

Aikin	Moffett
Cotten	

#### Present—Not Voting

Isbell

#### Absent

Ramsey

#### Absent—Excused

Hill

Smith

#### Report of Conference Committee on House Bill 86

By unanimous consent, Senator Van Zandt submitted at this time the report of the Conference Committee on H. B. No. 86:

Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Hon. Homer Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House on H. B. No. 86, have had the same under consideration, and beg leave to report it back to the Senate and House with the recommendation that said bill be adopted in the form attached hereto.

Respectfully submitted,

VAN ZANDT,  
SHIVERS,  
LEMENS,  
STONE,  
VICK,

On the part of the Senate;

WALTERS,  
THORNTON,  
LANSBERRY,  
LOVE,

On the part of the House.

Conference Committee substitute for H. B. No. 86.

H. B. No. 86, A bill to be entitled "An Act to amend Chapter 482, Acts of the Forty-fourth Legislature, Third Called Session (1936), page 1993, as amended by Acts of the Forty-fifth Legislature (1937), Chapter 67, page 121, and as amended by Acts of the Forty-sixth Legislature (1939), page 436, so as to make the Texas Unemployment Compensation Law, conform to amendments made by the Congress of the United States in 1939 to the Federal Social Security Act; providing definitions of the terms, 'Base Period,' 'Calendar Quarter,' 'Benefits,' 'Benefit Year,' 'Commission,' 'Contributions,' 'Employing Unit,' 'Employer' and meanings thereof, 'Employment,' meanings thereof and inclusions therein, and exclusions therefrom, and 'Included and Excluded Service,' within the term 'Employment'; defining 'Employment Office,' 'Fund,' 'Partial Employment,' 'State,' 'Total Unemployment,' 'Unemployment Compensation Administration Fund,' 'Valid Claim,' 'Wages,' 'Week,'



'Benefit Amount,' 'Benefit Period,' and providing for repeal of all parts of Chapter 482, General and Special Laws, Forty-fourth Legislature, Third Called Session, as amended by Chapter 67, General and Special Laws, Forty-fifth Legislature, Regular Session, as amended by Chapter 2, Title 'Labor,' General Laws, Forty-sixth Legislature, Regular Session, in conflict herewith and all laws or parts of laws in conflict herewith, but not in any wise forfeiting or waiving any rights of the State of Texas or the Texas Unemployment Compensation Commission to collect contributions, interest or penalties that have accrued under said Chapter, or the right of prosecution for violating any provision thereof; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Section 19, Chapter 482, General and Special Laws of the Forty-fourth Legislature, Third Called Session, as amended by Section 7, Chapter 67, General and Special Laws, Forty-fifth Legislature, Regular Session, as amended by Section 10, Chapter 2, Title "Labor," General Laws, Forty-sixth Legislature, Regular Session, be amended so as to read hereafter as follows:

#### "Definitions"

"Section 19. As used in this Act, unless the context clearly requires otherwise:

"(a) (1) 'Base period' means the first four (4) out of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

"(2) 'Calendar quarter' means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the Commission may by regulation prescribe.

"(b) (1) 'Benefits' means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

"(2) 'Benefit year,' with respect to any individual, means the fifty-two consecutive-week period beginning with the day on which the first valid claim for benefits is filed, and thereafter the fifty-two-consecutive-week

period beginning with the day on which his next valid claim for benefits is filed after the termination of his last preceding benefit year.

"(c) 'Commission' means the Unemployment Compensation Commission established by this Act.

"(d) 'Contributions' means the money payments to the State Unemployment Compensation Fund required by this Act.

"(e) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or, subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

"(f) 'Employer' means:

"(1) Any employing unit which for some portion of a day but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employment eight (8) or more individuals (irrespective of whether the same individuals are or were employed in each such day);

"(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

"(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employ-

ing unit (not an employer subject to this Act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this Subsection;

"(4) Any employing unit which, together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interest, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this Subsection;

"(5) Any employing unit which, having become an employer under paragraphs (1), (2), (3), or (4), has not, under Section 8, ceased to be an employer subject to this Act;

"(6) For the effective period of its election pursuant to Section 8 (b) any other employing unit which has elected to become fully subject to this Act.

"(g) (1) 'Employment' means any service performed prior to October 1, 1941, which was employment as defined in this Section prior to such date, and subject to the provisions of this Subsection, services performed on and after October 1, 1941, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, provided that any services performed by an individual for wages shall be deemed to be employment subject to this Act unless and until it is shown to the satisfaction of the Commission that such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact.

"(2) The term 'employment' shall include an individual's entire service, performed within or both within and without this State, if:

"(A) The Service is localized in this State; or

"(B) The service is not localized in any State but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from

which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

"(3) (A) Service not covered under paragraph (2) of this Subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State, shall be deemed to be employment subject to this Act if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

"(B) Services covered by reciprocal agreements authorized by this Act between the Commission and the agency charged with the administration of any other State or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment, if the Commission has approved an election of the employing unit for whom such services were performed pursuant to which the entire service of such individual during the period covered by such election is deemed to be employment subject to this Act.

"(4) Service shall be deemed to be localized within a State, if:

"(A) The service is performed entirely within such State; or

"(B) The service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

"(5) The term 'employment' shall not include:

"(A) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State, or its political subdivisions;

"(B) Service with respect to which unemployment compensation is payable under an Unemployment Compensation System established by an Act of Congress; provided that the

Commission is hereby authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 11 (b) of this Act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

"(C) Agricultural labor;

"(D) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

"(E) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

"(F) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) years in the employ of his father or mother;

"(G) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

"(H) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 101 of the Internal Revenue Code, if (i) the remuneration for such service does not exceed Forty-five (\$45) Dollars, or (ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the Home Office, or is ritualistic service in connection with any such society, order, or association, or (iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

"(I) Service performed in the employ of this State or of any other State, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this State or by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of this State or of one or more States or political subdivisions to the extent that the instrumentality is with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 1600 of the Federal Internal Revenue Code;

"(J) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) eighty-five (85) per cent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

"(K) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

"(L) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under Section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed Forty-five (\$45.00) Dollars (exclusive of room, board, and tuition);

"(M) Service performed in the employ of a foreign government (including wages as a consular or other officer or employee, or a nondiplomatic representative);

"(N) Service performed in the employ of an instrumentality wholly owned by a foreign government (i) if the service is of a character similar to that performed in foreign countries by the employees of the United States Government or of an instrumentality thereof; and (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

"(O)" Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to State law;

"(P) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

"(Q) Service performed by an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(R) Service covered by an arrangement between the Commission and the agency charged with the administration of any other State or Federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's State or under such Federal law.

"(6) Included and Excluded Service. If the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed

to be employment; but if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this sub-section the term 'pay period' means a period (of not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This sub-section shall not be applicable with respect to services performed in any pay period by an individual for the person employing him, where any of such service is excepted by Section 19 (g) (5) (B).

"(h) 'Employment office' means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

"(i) 'Fund' means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

"(j) 'Partial unemployment': An individual shall be deemed 'partially unemployed' in any benefit period of less than full time work if his wages payable for such benefit period fail to equal Four (\$4.00) Dollars more than the benefit amount he would be entitled to receive if totally unemployed and eligible.

"(k) 'State' includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

"(1) 'Total Unemployment': An individual shall be deemed 'totally unemployed' in any benefit period during which he performs no services and with respect to which no wages are payable to him. An individual's benefit period of total unemployment shall be deemed to commence only after his registration pursuant to Section 4 (a) of this Act. As used in this sub-section (1) and sub-section (j), the term 'wages' shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of Six (\$6.00) Dollars in any one benefit period, and the term 'services' shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than Six Dollars (\$6) in any one benefit period is payable.

"(m) 'Unemployment Compensation Administration Fund' means the Unemployment Compensation Administration Fund established by this Act, from which administrative expenses under this Act shall be paid.

"(n) 'Valid Claim' means a claim for benefits by an individual who has earned qualifying wages as provided in Section 4 (d) of this Act.

"(o) 'Wages' means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of all remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission, providing, however, that after October 1, 1941, the term 'wages' shall not include:

"(1) That part of the remuneration which, after remuneration equal to Three Thousand (\$3,000) Dollars has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year;

"(2) The amount of any payment made to, or on or behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash con-

sideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

"(3) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under Section 1400 of the Internal Revenue Code of (B) of any payment required from an employee under a State unemployment compensation law; or

"(4) Dismissal payments which the employer is not legally required to make.

"(p) 'Week' means such period of seven (7) consecutive calendar days as the Commission may prescribe.

"(q) 'Benefit amount': An individual's 'benefit amount' means the amount of benefits he would be entitled to receive for one benefit period of total unemployment.

"(r) 'Benefit Period': An individual's 'benefit period' means such period of fourteen (14) consecutive calendar days as the Commission may by regulation prescribe."

"Section 1 (a). That Section 5 of Chapter 482, General and Special Laws, Forty-fourth Legislature, Third Called Session, as amended by Section 3, Chapter 2, Title: Labor, General Laws, Forty-sixth Legislature, Regular Session, be amended so as to hereafter read as follows:

#### "Disqualification for Benefits

"Sec. 5. An individual shall be disqualified for benefits:

"(a) If the Commission finds that he has left his last employment voluntarily without good cause connected with his employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

"(b) If the Commission finds that he has been discharged for misconduct connected with his last employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, as determined by the Commission in each case according to the seriousness of the misconduct.

"(c) If the Commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall be for not less than one (1) nor more than four (4) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

"(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

"(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor disputes; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

"(d) For any benefit period with respect to which the Commission finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

"(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work;

"(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members em-

ployed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate business in separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this sub-section, be deemed to be a separate factory, establishment, or other premises.

"(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

"(1) Wages in lieu of notice;

"(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen's Compensation Law of any state or under a similar law of the United States;

"(3) Old age benefits under Title II of the Social Security Act as amended, or similar payments under any Act of Congress, or a State Legislature, or employer pension plan, provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration.

"(f) In determining the number of benefit periods during which any individual is entitled to receive benefits in a benefit year, the Commission shall deduct any period of disqualification as provided in subsection (a), (b), and (c) of this Section from the total number of benefit periods during which he would otherwise be entitled to receive benefits except for such disqualification; provided, that in no case shall the number of benefit periods so deducted exceed the number of benefit periods during which the claimant is then eligible to receive benefits except for such disqualification."

Sec. 2. The provisions of this Act shall repeal all parts of Chapter 482, General and Special Laws, Forty-fourth Legislature, Third Called Session, as amended by Chapter 67, General and Special Laws, Forty-fifth Legislature, Regular Session, as amended by Chapter 2, Title "Labor," General Laws, Forty-sixth Legislature, Regular Session, in conflict herewith, and all laws or parts of



laws in conflict herewith, but shall in no way be construed as forfeiting or waiving any rights of the State of Texas or the Texas Unemployment Compensation Commission, including without limiting the foregoing, the right to collect contributions, interest, or penalties that have accrued under said Chapter, and the right of prosecution for violating any provision thereof.

Sec. 3. The fact that the Texas Unemployment Compensation Act covering the matters embraced in the preceding Section has certain inequities and certain ambiguities, and the importance of this legislation, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—29

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hill	Smith
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#### House Concurrent Resolution 188

The President laid before the Senate and had read (the resolution having been received from the House June 9, 1941):

H. C. R. No. 188, Memorializing Congress to designate the second Sunday in May as Mother's and Father's Day.

On motion of Senator Moffett and by unanimous consent, the resolution was considered and adopted at this time.

#### Reports of Standing Committees

Senator Weinert, by unanimous consent, submitted at this time the following reports:

Austin, Texas,  
July 2, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 1101, A bill to be entitled "An Act making it lawful to hunt wounded wild deer with one dog in the Counties of Liberty and Hardin, Texas, during the open season of each year for a period of five (5) years; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Vice Chairman.

Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 1095, A bill to be entitled "An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency."

Have had the same under consideration, and we desire to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 1100, A bill to be entitled "An Act making it unlawful to take, kill, pursue or attempt to take, kill, or pursue, or otherwise molest any deer in Shelby County until November 16, 1946; providing a suitable penalty; repealing conflicting laws; and declaring an emergency."

Have had the same under consideration, and we desire to report same



back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Vice Chairman.

#### Senate Resolution 184

Senator Fain, by unanimous consent, offered the following resolution at this time:

Whereas, The Board of Control is now in charge of the yacht "Eureka," which formerly belonged to the 36th Division Aviation Unit; and

Whereas, The said yacht "Eureka" is in dock at Houston, Texas; and

Whereas, It is necessary for the Board of Control to expend sums of money for the repainting of this boat, and for storage fees; and

Whereas, No division of the State government is using this boat; now, therefore, be it

Resolved by the Senate of the State of Texas, That the President of the Senate shall appoint a committee of three Members of the Senate to make investigation of this matter as to the boat's ownership, condition, etc., and report as to the advisability of sale, disposition or use of said yacht, making their recommendations to the Board of Control.

The resolution was read and by unanimous consent, it was considered and adopted at this time.

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate amendments to H. C. R. No. 274 by a viva voce vote.

The House has adopted the following resolutions:

H. C. R. No. 289, Suspending Joint Rules in order that the House may take up and consider through reconsideration and final passage S. B. No. 489.

H. C. R. No. 294, Suspending Joint Rules in order to permit the House to take up and consider and finally pass S. J. R. No. 20.

H. C. R. No. 296, Suspending all necessary Joint Rules in order to per-

mit the Senate to take up and consider H. B. No. 1100.

H. C. R. No. 297, Authorizing Enrolling Clerk to amend caption of H. B. 1011.

H. C. R. No. 298, Authorizing certain changes in H. B. 1068.

The House has passed notwithstanding the veto of the Governor by vote of 95 yeas, 34 noes:

H. B. No. 942, A bill to be entitled "An Act amending Section 6, Chapter 2, Acts of Forty-second Legislature, Fourth Called Session, as amended by Section 9, Chapter 76, Acts of the Forty-fourth Legislature, Regular Session, and providing that the Railroad Commission shall limit production of crude petroleum oil in this State to the reasonable market demand therefor, providing that the allowable production of oil shall be allocated among the pools in the State by the Railroad Commission; providing that the Railroad Commission shall ascertain the reasonable market demand; providing that certain factors shall be considered by the Railroad Commission in determining reasonable market demand; providing that certain factors shall be considered by the Railroad Commission in allocating and apportioning the allowable production of oil among the pools in this State; and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Concurrent Resolution 294

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 294, Authorizing the House to consider S. J. R. No. 20 today.

On motion of Senator York and by unanimous consent, the resolution was considered and adopted at this time.

#### House Concurrent Resolution 289

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 289, Authorizing the House to consider S. B. No. 489 today.

On motion of Senator Mauritz, and by unanimous consent, the resolution was considered and adopted at this time.

#### House Bill 1095 on Second Reading

On motion of Senator Beck and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1095 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1095, A bill to be entitled "An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1095 on Third Reading

Senator Beck moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1095 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hill Smith

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hill Smith

#### House Bill 11 on Second Reading

On motion of Senator Van Zandt and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 11 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 11, A bill to be entitled "An Act to amend Article 2746, Revised Civil Statutes relative to payment of persons holding elections of local school trustees; and declaring an emergency."

The bill was read second time.

Senator Van Zandt offered the following amendment to the bill:

Amend H. B. No. 11 by striking out the following words in Section 1:

"Section 1. From and after the passage of this Act, Article 2746 shall read as follows:"

and insert in lieu thereof the following:

"Section 1. Article 2746 of the Revised Civil Statutes of Texas, 1925, is hereby amended and shall hereafter read as follows:"

The amendment was adopted.

The bill was passed to third reading.

#### House Bill 11 on Third Reading

Senator Van Zandt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 11 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hill Smith

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Bills and Resolutions Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

S. B. No. 471, A bill to be entitled "An Act making appropriations to pay miscellaneous claims out of the General Revenue Fund, or any other funds against which claims were originally incurred; providing that before payment of any claims shall be paid from the funds hereby appropriated the same shall have the approval of the State Comptroller and the Attorney General; and provided further that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials herein named; and declaring an emergency."

H. B. No. 3, A bill to be entitled "An Act making a specific appropriation out of the General Revenue Fund of the State of Texas, not otherwise appropriated, to pay a judgment obtained by Trinity Portland Cement Company against the State of Texas pursuant to resolution granted by the State of Texas to the said Trinity Portland Cement Company, authorizing it to sue the State of Texas for the recovery of filing fees and franchise taxes paid to the Secretary of

the State of Texas, which filing fees and franchise taxes the courts of the State of Texas held to have been illegally collected; and providing further that the Comptroller of the State of Texas be directed to issue warrant to pay said judgment to the party herein named in payment of the same in the amount specified herein; and declaring an emergency."

H. B. No. 1032, A bill to be entitled "An Act providing that candidates for nomination for State Representative in a primary election in certain counties shall be required to pay a fee not to exceed Thirty (\$30.00) Dollars to the county executive committee; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1056, A bill to be entitled "An Act to amend Section 2 of H. B. No. 160, Acts of the First Called Session of the Forty-first Legislature, Chapter 83, page 209, by authorizing any city or county, having a population of not less than fifteen thousand (15,000) and not more than fifteen thousand two hundred fifty (15,250) to issue its general obligation bonds or warrants for the purpose of acquiring and improving land for airport purposes; providing that the authority given for the issuance of such bonds and the levy or collection of taxes in payment thereof shall be exercised in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes, 1925; providing that no election shall be necessary to authorize the issuance of such warrants but the city or county shall comply with the provisions of Chapter 163, Acts of the Regular Session of the Forty-second Legislature with reference to notice of intention to issue such warrants, and the levy of taxes in payment thereof, and the right to referendum election therein specified shall apply; providing that this Act shall not repeal any existing law; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency."

H. B. No. 1087, A bill to be entitled "An Act to amend H. B. No. 930, of the Forty-seventh Legislature by adding thereto a new Section to follow Section 1 thereof, and to be known as Section 1a, to provide that any unexpended balance in the sums of money appropriated to the Adjutant General's Department in H. B. No. 930, for the purposes stated, on hand August 31, 1941, are appropriated to

the Adjutant General's Department for the purposes stated in H. B. No. 930 for the two year period beginning September 1, 1941, and ending August 31, 1943; and declaring an emergency."

H. B. No. 1092, A bill to be entitled "An Act authorizing the annexation of streets, highways, and alleys by the Governing bodies of certain cities and towns; prescribing the method for such annexation; and declaring an emergency."

H. B. No. 1094, A bill to be entitled "An Act amending Section 6 of Chapter 426, Acts of the Regular Session of the Forty-fifth Legislature, as amended by Section 3 of H. B. No. 828, Acts of the Regular Session of the Forty-seventh Legislature, providing for the appointment, term of office, qualifications, and organization of Board of Directors of the San Jacinto River Conservation and Reclamation District; fixing the domicile of said district; and declaring an emergency."

H. B. No. 1098, A bill to be entitled "An Act to amend Section 1 of S. B. No. 496, Chapter 168, Acts of the Regular Session of the Forty-fourth Legislature, as amended by Section 1 of H. B. No. 153, Chapter 71, Acts of the Second Called Session of the Forty-fifth Legislature, so as to authorize any city of more than ten thousand (10,000) population, according to the last preceding Federal census, whether incorporated under general or special law, to codify and adopt a code of civil and criminal ordinances without the necessity of publication; providing for the taking effect of said code upon adoption providing said code shall have the force and effect of an ordinance regularly enacted; and declaring an emergency."

H. C. R. No. 99, Making appropriation to purchase a portrait of Governor W. Lee O'Daniel.

H. C. R. No. 164, Granting permission to the District Judges to be absent from the State of Texas at such intervals and for such time as they may see fit and proper during the years 1941 and 1942, taking into consideration the condition of the dockets of said Courts.

H. C. R. No. 278, Instructing the Board of Control to make necessary changes in S. B. No. 402.

### House Bill 1084 Passed Over Governor's Veto

Senator Ramsey moved that H. B. No. 1084, vetoed by the Governor and passed by the House notwithstanding the objection of the Governor, be now reconsidered by the Senate and passed notwithstanding the objections of the Governor thereto and his veto and disapproval thereof.

The motion prevailed by the following vote:

#### Yeas—27

Beck	Metcalf
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Spears
Graves	Stone
Hazlewood	Sulak
Kelley	Van Zandt
Lanning	Vick
Lemens	Weinert
Lovelady	Winfield
Martin	York
Mauritz	

#### Nays—2

Aikin	Isbell
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#### Absent—Excused

Hill	Smith
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### Report of Conference Committee on House Bill 796

The Senate resumed consideration of pending business, same being the report of the Conference Committee on H. B. No. 796; with motion by Senator Moffett to adopt the report pending.

Question—Shall the motion to adopt the report prevail?

After extended debate of the question, Senator Moffett withdrew the motion to adopt the report.

### Reconsideration of House Bill 942, Vetoed by the Governor

Senator Shivers moved that H. B. No. 942, vetoed by the Governor and passed by the House notwithstanding the objections of the Governor, be now reconsidered and passed by the Senate notwithstanding the objections of the Governor thereto and his veto and disapproval thereof.

Senator Lovelady moved the previous question on the motion and the motion for the previous question was duly seconded.

The main question was ordered by the following vote:

## Yeas—17

Beck	Ramsey
Chadick	Shivers
Fain	Spears
Hazlewood	Stone
Kelley	Vick
Lovelady	Weinert
Mauritz	Winfield
Metcalf	York
Moffett	

## Nays—12

Aikin	Lanning
Brownlee	Lemens
Cotten	Martin
Formby	Moore
Graves	Sulak
Isbell	Van Zandt

## Absent—Excused

Hill	Smith
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The motion of Senator Shivers was lost by the following vote (not receiving a vote of two-thirds of the Members of the Senate):

## Yeas—20

Aikin	Metcalf
Beck	Moffett
Chadick	Ramsey
Fain	Shivers
Hazlewood	Spears
Isbell	Stone
Kelley	Vick
Lemens	Weinert
Lovelady	Winfield
Mauritz	York

## Nays—8

Brownlee	Martin
Cotten	Moore
Graves	Sulak
Lanning	Van Zandt

## Absent—Excused

Hill	Paired
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Senator Formby (present) who would vote "nay," with Senator Smith (absent, excused) who would vote "yea."

## Senate Resolution 185

Senator Winfield, by unanimous consent, offered the following resolution at this time:

Be it resolved by the Senate, That the following named employees be retained for the number of days, and at the per diem salary, specified in each case to perform such duties as may be required of them in connection with the business of the State, viz:

The Secretary of the Senate shall be retained during the interval between adjournment of this session and convening of the next session of the Legislature for which services he shall receive the same per diem he now receives, and in addition thereto, he shall be furnished postage, telegraph, telephone, express and all other expenses incident to the office. One secretary during the interval between adjournment of this session and convening of the next session of the Legislature shall be retained who shall receive the same per diem she now receives.

The Lieutenant Governor shall be allowed \$10.00 per day for secretarial services from the closing of this session until the convening of the next session and said sum shall be expended as he may direct.

The Warrant Clerk shall be retained for a period of three days at a salary of \$5.00 per day.

The Journal Clerk shall be retained for a period of 90 days at \$7.50 per day, and one assistant Journal Clerk to be named by the Lieutenant Governor who shall be retained for 90 days at \$5.00 per day. The Sergeant-at-Arms shall be retained 15 days at \$7.50 per day, with one assistant for 15 days at \$5.00 per day, and two (2) assistants for 12 days at \$5.00 per day, and five (5) extra porters shall be retained for 4 days at \$2.50 per day. The Calendar Clerk shall be retained seven (7) days at \$7.50 per day. The Engrossing and Enrolling Clerk shall be retained three (3) days at \$7.50 per day. The private secretary of each Senator may be retained for 2 days at \$5.00 per day to perform such duties as may be required of them. The Postmistress shall be retained three days at \$5.00 per day, after which time the Secretary of the Senate shall attend to all mail of the Senators. The Librarian of the Senate shall be retained 3 days at \$5.00 per day; the Mailing Clerk 5 days and two (2) assistants for two days at \$5.00 per day.

The Chairman of the Senate Committee on Contingent Expense is hereby authorized and directed to cause the Senate Chamber to be placed in order and an inventory made of all furniture and fixtures in the Senate Chamber and in the private offices of the Members, as well as of the supplies and equipment on hand in the room of the Sergeant-at-Arms, and close his books for the Regular Ses-

sion of the Forty-seventh Legislature, and he shall be entitled to receive his actual and necessary expenses incurred while in the performance of such duties. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval.

The Lieutenant Governor shall appoint a Custodian of the Senate and an Assistant Custodian to perform such services as the Lieutenant Governor or the Secretary of the Senate may direct and the Custodian to receive the sum of \$125.00 per month and the Assistant Custodian to receive \$80.00 per month.

The Lieutenant Governor is authorized to employ a head porter to serve as he shall direct in keeping the Senate Chamber in order during the interval between this session and the next ensuing session of the Legislature, for which service said porter shall receive \$105.00 per month; and be it further

Resolved, That the Ulit Home Decorating Company be paid the amount of \$75.57, a remaining balance on the purchase and installment of the venetian blinds installed in the Senate Chamber, and be it further

Resolved, That all expenses of committee created by S. R. No. 80 shall be paid upon properly approved accounts, and such committee is hereby discharged; and be it further

Resolved, That there shall be printed seven hundred fifty (750) volumes of the Senate Journals of the Regular Session of the Forty-seventh Legislature, and when completed, two hundred fifty (250) copies shall be bound in buckram and delivered to the Secretary of State and one volume thus bound shall be forwarded by the Secretary of State to each Member of the Senate and House of Representatives, to the Lieutenant Governor and Secretary of the Senate, and twenty-five (25) such copies shall be delivered to the Secretary of the Senate, and the remaining copies shall be retained by the Secretary of State. The printing of such Senate Journals shall be done in accordance with the provisions of this resolution under supervision of the Chairman of the Committee on Contingent Expense; provided further, that it shall be the

duty of said chairman to refuse to receive or receipt for said Journals until corrected and published in accordance with the pre-existing law and as finally approved by the Chairman of the Committee on Contingent Expense of the Senate. When the accounts have been certified to by the Chairman of the Senate Committee on Contingent Expense, said accounts shall be paid out of the Contingent expense Fund of the Regular Session of the Forty-seventh Legislature; and be it further

Resolved, That all salaries herein authorized to be incurred and paid for shall be paid out of the per diem and contingent Expense Fund of the Regular Session of the Forty-seventh Legislature upon warrants signed by the Lieutenant Governor and the Secretary of the Senate. All warrants for the payment of materials, supplies and expenses of the Senate shall be paid upon warrants signed by the President of the Senate and Chairman of the Senate Committee on Contingent Expense; and be it further

Resolved, That all necessary repairs and improvements to the Senate Chamber and offices of the Senate shall be made under the direction of the Secretary of the Senate; and be it further

Resolved, That the cash balance on hand under provisions of S. R. No. 15 be turned over to the Secretary of the Senate and he is directed to have full charge of the vending machines and receipts thereof now authorized by said resolution; and be it further

Resolved, That each Senator be allowed the sum of not more than \$50.00 per month from the adjournment of the Regular Session of the Forty-seventh Legislature until the convening of the next Special or Regular Session for the purpose of defraying the expense of hiring a part time stenographer to be used only for the purpose of transacting business incident to his office as State Senator, and only for State business; and further for the purpose of defraying the expense of telephone, telegraph and postage used only in State business and incident to his office as State Senator, and be it further

Resolved, That a matron be retained for the women's rest room at a salary of \$40.00 per month; and be it further

Resolved, That the Lieutenant Governor and the Secretary of the Senate be and they are hereby authorized to retain one secretary for such time

as may be necessary for the compiling and indexing of the Legislative Manual for the Senate of the Forty-seventh Legislature and for said services the secretary shall receive the sum of \$5.00 per day.

The resolution was read and was adopted.

#### Record of Votes

Senators Aikin, Beck, Cotten, Fain, Graves, Isbell, Metcalfe, Moore, Shivers and Sulak asked to be recorded as voting "nay" on the adoption of the resolution.

#### Special Committee Appointed

The President announced the appointment of the following committee to investigate the ownership, condition, advisability of sale, etc., of the yacht "Eureka" in compliance with the provisions of Senate Resolution No. 184: Senators Chadick, Moore and Fain.

#### Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

S. J. R. No. 20, Proposing an amendment to the Constitution of the State of Texas by amending Section 33 of Article 16, of the Constitution of Texas so as to permit the accounting officers of this State to draw and pay warrants for salaries to officers of the United States Army or Navy who are assigned to duties in State Institutions of higher education.

S. C. R. No. 87, Declaring Legislative intent on H. B. No. 831 insofar as it affects H. B. No. 1064 of Forty-sixth Legislature.

H. C. R. No. 299, Authorizing the Enrolling Clerk of the House to delete "Section 16a" from Conference Committee report on H. B. No. 796.

The House has adopted the Conference Committee report on H. B. No. 166 by a vote of 100 ayes, 16 noes.

The House has concurred in Senate amendments to H. B. No. 11 by a viva voce vote.

The House has adopted the Conference Committee report on H. B. No. 682 by a viva voce vote.

The House has failed to pass notwithstanding the veto of the Governor by a vote of 71 yeas, 52 nays:

S. B. No. 5, A bill to be entitled "An Act granting and donating to each respective county of this State for a period of five (5) years, beginning with the taxable year 1942, all of the State ad valorem taxes for general revenue purposes not heretofore donated or appropriated, collected for general revenue purposes upon the property and from persons in each respective county, including ad valorem taxes on rolling stock belonging to railroad companies; providing that taxes shall be levied, assessed and collected as now provided by law; authorizing the assessor or collector of taxes in each county to pay over to the county treasurer all moneys collected by him at the end of each month during the period of this donation, less amounts allowed by law for assessing and collecting the same; providing that nothing in this Act shall amend, alter, modify or repeal any donation, grant or remission of taxes heretofore made; providing that the taxes donated and granted by this Act shall be used by the county commissioners' courts for any purpose not inconsistent with the Constitution of Texas, including lowering the ad valorem tax rate for county purposes, constructing flood control works and improvements in said county, improvements to prevent soil erosion and soil conservation purposes, irrigation and drainage projects, reforestation and road building, conservation and utilization of water, projects sponsored by a county in cooperation with the Federal Works Progress Administration or its successors, purchase of rights-of-way for public roads, general relief and charitable purposes, paying the interest and sinking fund on any outstanding bonded indebtedness of the county, assisting in the development of navigation, and any other purpose or purposes not specifically prohibited by the Constitution; authorizing the commissioners' courts to contract with the governing boards of any river authority or water improvement district to perform construction works for such river authority or water improvement district; or to set aside any part, or all, of the taxes herein donated and granted to such county,



for the use of such river authority or water improvement district in retiring its bonded indebtedness, or carrying out any other purpose for which such district was created; providing that if any Section, subsection, paragraph, clause, sentence, or word of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining provisions of this Act; and this Legislature hereby declares that it would have passed such remaining portions despite such invalidity; and declaring an emergency."

The House has refused to adopt the Conference Committee report on H. B. No. 703 by a viva voce vote and has requested the appointment of a new Conference Committee and appoints:

Lowry, Bridgers, Walters, Rhodes and Kinard.

The House has adopted the Conference Committee report on H. B. No. 86, 112 ayes, 7 noes.

The House has adopted the Conference Committee report on S. B. No. 119 by a vote of 94 ayes, 8 noes, 1 present.

The House has adopted the Conference Committee report on S. B. No. 38 by a vote of 89 ayes, 15 noes.

The House has adopted the Conference Committee report on H. B. No. 711 by a viva voce vote.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

#### Report of Conference Committee on House Bill 796

Senator Moffett moved to adopt the report of the Conference Committee on H. B. No. 796 (with Section 16a of the bill as recommended by the Conference Committee deleted).

Senator Chadick moved the previous question on the motion to adopt the report, and the motion for the previous question was duly seconded.

The main question was ordered by the following vote:

Yeas—17

Beck	Lovelady
Brownlee	Metcalf
Chadick	Moffett
Fain	Moore
Hazlewood	Ramsey
Kelley	Shivers
Lemens	Spears

Van Zandt	York
Weinert	

Nays—9

Aikin	Martin
Cotten	Mauritz
Graves	Stone
Isbell	Sulak
Lanning	

Absent

Formby	Winfield
Vick	

Absent—Excused

Hill	Smith
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Question then recurring on the motion to adopt the report, it prevailed by the following vote:

Yeas—24

Aikin	Mauritz
Beck	Metcalf
Brownlee	Moffett
Chadick	Moore
Fain	Ramsey
Formby	Shivers
Graves	Sulak
Hazlewood	Van Zandt
Isbell	Vick
Kelley	Weinert
Lanning	Winfield
Lemens	York
Lovelady	

Nays—4

Cotten	Spears
Martin	Stone

Absent—Excused

Hill	Smith
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#### House Concurrent Resolution 299

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 299, Authorizing Enrolling Clerk of House to delete Section 16a from H. B. No. 796 as shown in the bill attached to the report of the Conference Committee on the bill.

The resolution was adopted.

#### House Concurrent Resolution 297

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 297, Authorizing the Enrolling Clerk to make correction in caption of H. B. No. 1011.

On motion of Senator Metcalfe, and by unanimous consent, the resolution was considered and adopted at this time.

**Report of Conference Committee on House Bill 238**

Senator Shivers submitted at this time the following report:

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on H. B. No. 238, have had the same under consideration and beg leave to recommend passage of H. B. No. 238 in the form attached hereto.

SHIVERS,  
RAMSEY,  
KELLY,  
METCALFE,

On the part of the Senate.

MORSE,  
GILMER,  
McALISTER,

On the part of the House;

A bill to be entitled

"An Act amending Chapter 13, Acts, Third Called Session of the Forty-second Legislature, as amended; declaring the policy of the State with reference to building, maintaining and financing State designated roads; defining certain terms used throughout the Act; creating the Board of County and District Road Indebtedness, and prescribing the powers, duties and obligations of said Board; allocating revenue obtained from the occupation tax on the business of selling gasoline; creating a County and Road District Highway Fund designating the money to be placed in said fund, and prescribing the manner and purpose for which such fund shall be expended; authorizing the payment out of the County and Road District Fund of certain bonds and warrants issued by the counties where the proceeds of such bonds and warrants were used in the construction of roads comprising the State System of Highways; providing for refunding certain county obligations and bonds; providing for the disposition of sinking funds on county bonds issued to build State designated highways; making an appropriation of monies coming into the County and Road District Highway Fund; providing for the handling of

county sinking funds accumulated from the payment of certain road bonds and warrants; providing for the payment of certain Navigation District Bonds; making an appropriation for the administration of this Act; providing that if any Section of this Act is unconstitutional, other portions of this Act shall not be affected thereby; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

That Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as heretofore amended, be amended so as to be and read as follows:

Section 1. It is expressly recognized and declared that all highways now or heretofore constituting a part of the system of State Highways which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have contributed to the general welfare, settlement and the development of the entire State, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road districts and their inhabitants, and both a legal and moral obligation rests upon the State to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the State, and have paid expenses which were and are properly State expenses, all for the use and benefit of the State.

Having heretofore, by an Act of the Legislature (Chapter 13, Acts of the Third Called Session of the Forty-second Legislature in 1932) taken over, acquired and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State Highways, it is further declared to be the policy of the State to take over, acquire, purchase and retain, the interest and equities of the various counties and defined road districts in and to the highways not previously taken over, acquired and purchased and constituting on January 2, 1939, a part of the system of design-

nated State Highways, and to provide for the acquisition, establishment, construction, extension and development of the system of designated State Highways of Texas, from some source of income other than the revenue derived from ad valorem taxes. And it is hereby determined that the further provisions of this Act constitute fair, just and equitable compensation, repayment and reimbursement to said counties and defined districts and for their aid and assistance to the State in the construction of State Highways.

Sec. 2. By the expression "defined road districts" or "road districts" or "district" used in this Act, is meant any defined road district of the State or any justice or commissioners' precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges and culverts.

By the expression "highways," "State Highways" and "State designated Highways" are meant roads which prior to January 2, 1939, had become a part of the system of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State designated Highways.

Sec. 3. All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State

Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any monies furnished by the counties except the acquisition of rights of way which may be furnished by the counties, their subdivisions or defined road districts. But this shall in no wise affect the carrying out of any binding contracts now existing between the State Highway Department and the commissioners' court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall from funds available to the State Highway Department provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction in cooperation with the Federal Government to the extent of Federal Aid to the State, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from State Funds.

Sec. 4. All monies now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund," including all Federal Aid money deposited to the credit of said fund under the terms of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said system of State Highways by the State Highway Department.

Sec. 5. Each month the Comptroller of Public Accounts, after computing and ascertaining the maximum amount of refunds that may be due by the State on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the Second Called Session of the Forty-first Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the Forty-second Legislature shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17, Chapter 98, General Laws, Acts of

the Regular Session of the Forty-second Legislature as amended, and, beginning with said taxes collected on and after October 1, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: One-fourth of such occupation or excise tax shall go to, and be placed to the credit of, the Available Free School Fund; a maximum of one-fourth of said occupation or excise tax or so much of said one-fourth as may be necessary to pay the interest, principal and sinking fund requirements on all eligible obligations under this Act and expenses of administration of this Act shall go to, and be placed to the credit of a fund to be known as the "County and Road District Highway Fund"; subject to the provisions and limitations of Section 3 of this Act, the remainder of such occupation or excise tax shall go to, and be placed to the credit of, the State Highway Fund, for the construction and maintenance of the public roads of the State, constituting and comprising the system of State Highways of Texas, as designated by the State Highway Commission of Texas.

Sec. 6. (a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, insofar as amounts of same were issued for and the proceeds have been actually expended in the construction of roads, that constituted and comprised a part of the system of designated State Highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the system of State Highways or any road that heretofore has constituted a part of said system and which has been or may be changed, re-located or abandoned, whether said indebtedness is now evidenced by the obligation originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the monies coming into said County and District Highway Fund, subject to the provisions of this Act, provided, that such indebtedness, the proceeds of which have been expended in the construction of roads, which have been designated as a part of

the State Highway System after September 17, 1932, and prior to January 2, 1939, shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State system; provided further that any participation in said fund by any county or defined road district shall be less the amount of money which it was required to accumulate in the sinking fund under the provisions of the statutes and order of the commissioners' court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run regardless of whether the full amount of said funds are, or may be, actually on hand and to the credit of the sinking funds of such county or defined road district. It is provided expressly in this connection that the term "sinking funds" shall include only those funds required under the law for the retirement of principal and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as herein-after provided. Provided further that no State funds created or provided for by the terms of this Act shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations.

In the event the State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially enters of record its acceptance and designation of such road as a part of the State Highway System for maintenance, then the provisions of this Act shall apply as if the said Roads had actually been designated prior to January 2, 1939.

(aa) In addition to and regardless of the other provisions of this Act, all bonds, warrants or other evidences of indebtedness voted, or issued without being voted by a county or defined road district prior to January 2, 1939, insofar as amounts of same

were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated System of State Highways or which may hereafter become a part of the designated System of State Highways shall be eligible to participate in the distribution of the monies coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to the designation of the road as a State highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contract, specifications and supervision of the State Highway Department and when so expended the bonds shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further that all such bonds or warrants to be hereafter sold by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of this Section shall be sold subject to the approval of the Board of County and District Road Indebtedness.

In addition to and regardless of the other provisions of this Act, bonds voted prior to January 2, 1941, by a County or a defined road district shall be eligible for participation when the proceeds thereof are expended upon roads certified by the War Department or by the Navy Department as being essential to the National Defense provided that the building of such roads is approved by the Highway Commission. As a condition precedent to such participation in the County and Road District Highway Fund, the expenditure of the proceeds from said bonds shall be approved in every respect by the State Highway Commission under such regulations as may be prescribed by said Commission. The effective date of such participation shall be the date on which funds are escrowed with or deposited with the State Highway Department or at the discretion of the State Highway Commission, the date

of the award of a contract by such county or road district properly approved in every respect by said State Highway Commission.

(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, consisting of the State Highway Engineer, State Comptroller of Public Accounts, and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said Board and said Board shall elect its own chairman from its membership. The board shall adopt its own rules consistent with this Act for the proceedings held hereunder, and shall have authority to call to its assistance in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund any official or employee of this State, and shall avail itself of all data and information assembled in the administration of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, and said board is hereby authorized to call on any county judge or any county or State official or employee, and shall have full access to all the records, books and public documents for the purpose of obtaining any information which it may deem necessary and pertinent to its inquiry in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund.

(c) It shall be the duty of the Board of County and District Road Indebtedness, from the data and information furnished by the County Judges of the State, and by the Chairman of the State Highway Commission and by the State Comptroller of Public Accounts, and from such further investigation as said board may deem necessary to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever in the case of any particular issue of obligations the proceeds thereof shall have been expended partly on designated State highways, or highways heretofore constituting designated State highways, and partly on roads which never have

been designated State highways, said board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State highways or on road heretofore constituting State highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund, and said ascertainment and determination shall be certified to the county judge by said board and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness after reasonable notice and hearing, of the amount of any county or defined road district obligations eligible under the provisions of this Act to participate in any monies coming into the County and Road District Highway Fund, or as to the amount of any obligations the proceeds of which were actually expended on State highways, or on roads heretofore constituting State highways, shall be final and conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

(d) The Board shall make and keep a record of all county and defined road district eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest, and places of payment for each county and each defined road district; each issue and the data pertaining to same shall be listed separately. The board shall keep a record of all vouchers issued.

(e) The State Treasurer shall keep a separate account for each county and defined road district of any monies received for the credit of said county or defined road district pursuant to the provisions hereof.

(f) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be the eligible indebtedness of each county and defined road district, and a copy thereof shall be furnished to each county judge in this State.

(g) From year to year, and not later than July 15th of each year, said board shall ascertain and determine the sum necessary to pay the interest, principal, and sinking fund requirements on all eligible obligations for the next succeeding calendar year and shall estimate the sum which shall be applicable to the same, not later than August 1st of each year, give notice to the county judge of each county of the estimated amount available for application to said interest, principal, and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any county or defined road district is sufficient to meet all maturing interest, principal and sinking fund requirements, the commissioners' court may dispense with the collection of ad valorem levies for such calendar and/or fiscal year for such interest, principal, or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal, and sinking fund requirements, the county commissioners' court shall collect from taxes on the property in said respective counties and defined road districts, an amount of money equal to the differences between the amount of such requirements and the amount available for application. In this connection it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or defined road district and the owner or holder of the present outstanding indebtedness of any county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied, and collected as originally provided; however, the collection of said tax may, by order of the commissioners' court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the County and Road District Highway Fund, as herein provided, and as succeeding Legislature shall, by appropriation, make provisions therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the county treasurer of each county



collecting the same, together with a statement of the amount collected, to the State Treasurer and shall be held by the State Treasurer as ex-officio treasurer of said county or defined road district for the benefit of the county or defined road district remitting the same, and be disbursed to meet the interest, principal, and sinking fund requirements on the eligible obligations of said county or defined road district.

In the event the amount of funds available to be applied to meet the maturing interest, principal, and sinking fund requirements in any calendar or fiscal year is not sufficient to satisfy such requirements, the monies available in the county and road district highway fund, as estimated and determined by the board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or defined road districts; and if there is more of said moneys available than necessary to pay all of said interest, then such balance over the required interest payment for such year shall be distributed ratably to each issue of eligible obligations on the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

(h) On the first of the month of any current fiscal year, after the Board of County and District Road Indebtedness shall have made full provisions for the payment of all eligible obligations maturing during the then current fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon, out of the county and road district highway fund, any surplus in said fund over and above Three Million (\$3,000,000.00) Dollars, or so much thereof as the board may consider necessary as working capital or as a revolving fund, shall be transferred by the State Treasurer to the State Highway Fund for expenditure by the State Highway Department in the construction and maintenance of the State Highway System.

(i) The county commissioners' court of any county may exercise the authority now conferred by law to issue refunding obligations for the

purpose of refunding any eligible debt of the county or of any defined road district; and such refunding obligations, when validly issued shall be eligible obligations within the meaning of this Act, if said Board of County and District Road Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them. Provided that no commission, bonus, or premium shall be paid by any county or defined road district for the refunding of such obligations, and no county treasurer shall receive any commission for handling of the funds derived from the refunding of such obligations. All actual expense incurred in the refunding of its eligible indebtedness, including cost of proceedings, printing, legal approval and interest adjustment, shall be chargeable against the money theretofore or thereafter collected from ad valorem taxes, or at the option of the commissioners' court conducting such refunding, may be paid from any other money under its control and available for the purpose, provided no obligations for such expense items shall be incurred or paid without affirmative approval by said board. In any instance where, in the opinion of said board, the existing maturities of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the monies coming into the County and Road District Highway Fund in any particular period, said board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the board. In addition to and regardless of other provisions of this Act, the board may, if it deems it advisable, require the State's portion of any eligible issue to be refunded into obligations bearing such rate or rates of interest and having such maturities as may be satisfactory to the board and said board is hereby authorized to do all things necessary or convenient to carry out such refunding. And if said county or defined road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said board, said obligations so required to be refunded, and all other obligations of said county or defined road district shall cease to be eligible for participa-



tion in said County and Road District Highway Fund until the requirements of said board with respect to refunding shall be complied with.

(j) All monies to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1941, to August 31, 1943, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used and applied by the State Treasurer, as ex-officio treasurer of said respective counties and defined road districts, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing on and from September 1, 1941, to and including August 31, 1943, and each year thereafter until all of such eligible obligations are fully paid; and monies coming into the credit of the County and Road District Highway Fund with the State Treasurer and all monies remaining therein from the previous year shall be received and held by him as ex-officio treasurer of such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations and then for the other uses specified in this Act.

(k) As payment of principal and/or interest becomes due upon such eligible obligations, the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the bank or trust company or other place of payment designated in the particular obligations. Such warrants or voucher claims shall show on their face that the proceeds of the same are to be applied by the paying agent to the payment of certain specified obligations or interest therein described, by giving the name of the county or defined road district by which they were issued, numbers, amounts and dates of maturities of the obligations and interest to be paid with instructions to the State Treasurer, paying agent, bank or trust company to return to the State Comptroller of Public Accounts such obligations and interest coupons when same are paid, and the State Comptroller of Public Accounts shall,

upon receipt of said obligations and coupons, credit same on his records and send them, duly cancelled, to the commissioners' court of the appropriate county, which shall cause to be duly entered a record of such cancellation.

(l) Expenses necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the State, and in the discharge of the duties required for the payment of such obligations shall be paid from the County and Road District Highway Fund by warrant approved by the Chief Accountant, the State Comptroller of Public Accounts and one other member of said board.

The compensation of all employees of said board shall be fixed by the Legislature. All employees of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond being set by the board.

(m) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested, and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues shall be forwarded within thirty (30) days from the effective date of this Act, and thereafter within thirty (30) days of the acquisition of such fund or securities, to the State Treasurer as ex-officio county treasurer of the various counties and defined road districts. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations may also be remitted as above set forth, at the option of such county or defined road district. Any county, the commissioners' court of which fails or refuses to comply with the provisions of this Act in all things, including the levy, assessment, and collection of a tax and at a rate sufficient to pay all sums due or to become due, which the State is unable to pay or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with the provisions thereof. The Board of County and District Road Indebtedness shall have and possess full authority to invest all such sinking funds, including all

future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political subdivisions of this State, which mature within the current biennium in which such securities are purchased and where there is on hand a sufficient amount of monies or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and District Road Indebtedness may, if it deems it advisable, purchase and cancel said obligations of such particular political subdivision, irrespective of maturity dates. Provided further, that any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road Indebtedness is ample to cover the county deposits, and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five (5) years next preceding the date of the filing of its application for exemption, and in which county all sinking funds of all bond issues are in excess of the standard required by law and which county has levied for the current tax year adequate rates in support of outstanding bond issues and warrants as required by the Constitution and Statutes of said State, shall be exempt from the provisions of this Subsection (m) of this Act, and which exemption shall be obtained by such county in the manner and under conditions prescribed by the said Board of County and District Road Indebtedness. Said board shall have the right to inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the exemption. If at any time, in the opinion of the Board, counties that have been granted exemption under the provisions of this Act shall cease to comply with all the conditions under which the exemption has been granted, the board shall notify the county to return all securities in which the sinking funds of eligible road bond issues are invested and the residue in said sinking funds, and to begin immediately forwarding taxes levied and collected for the payment of interest and principal on all eligible road bond issues. Said coun-

ties whose exemption has been cancelled by said board shall be given a period of thirty (30) days in which to comply with the demands of the board. Provided further, that such county so exempt shall furnish the board an annual statement of the condition of the sinking funds of the several eligible road bond issues, together with a financial statement of the county depository. The board shall have the right to withhold the payment of any maturity on any eligible road bond indebtedness where such county has failed or refused to comply with all the provisions of this Act.

(n) The board shall keep adequate minutes of its proceedings and semi-annually, within thirty (30) days after February 28, and August 31, of each year, shall make itemized reports to each county with respect to the receipts, disbursements and investment of the funds credited to such county. The commissioners' court of any county, and/or its accredited representatives, shall have the right to inspect the records of said board and of the State treasurer, at any reasonable time for the purpose of making any investigation or audit of the accounts affecting its county.

(o) The board shall, within ninety (90) days after the close of each fiscal year, make a complete accounting for the preceding year to the Governor of this State, showing in such report its act, investment, changes in investments and sinking fund status of each county and each defined road district, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

(p) In the event this Act is repealed, or shall be or become inoperative as to any county or defined road district, then it shall be the duty of the board to ascertain immediately the amount of monies and securities remaining on hand with it or with the State Treasurer belonging to the several counties or defined road districts affected, and forthwith to return the same to the county treasurer of the county entitled thereto, accompanied by an itemized statement of the account of the county or defined road district.

(p) All funds on hand belonging to, and hereafter credited to, the several counties and defined road districts of the State, shall be considered

State funds, and as such shall be deposited at intervals in the depositories provided for by the State laws, and all interest earned on such funds and on the securities in which the sinking funds are invested shall belong to said counties or defined road districts, and shall be credited to them by the State Treasurer as earned and collected.

(r) Upon notice from the board of the amount that such county or defined road district shall be required to pay toward any installment of interest or maturing principal, the county treasurer of such county shall, not later than twenty (20) days prior to the maturity date of such interest, principal, or sinking fund requirements, forward to the State Treasurer the amount fixed by the board as being necessary to supplement the amounts previously placed to the credit of any such county or defined road district by said board under the provisions of this Act.

Sec. 7. All bonds heretofore issued by navigation districts of this State, which mature on or after January 1, 1933, and insofar as amounts of same were issued for and the proceeds thereof actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of designated State Highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter 13 of the Acts of the Forty-second Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session, to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges and in such cases the outstanding bonds of said navigation districts in an amount equal to the amount so expended by such navigation districts shall be redeemed under the same conditions as is provided by said Chapter 13, Acts of the Forty-second Legislature of Texas, Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session, for the redemption of County and Road District Bonds.

It is expressly provided that the Board of County and Road District Bond Indebtedness shall not be authorized to give the bonds herein re-

ferred to preference over other similar bonds eligible under said Bond Act; and it is further expressly provided that said Board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge and the balance due on said amount of bonds used in the construction of said bridge at the effective date of this Act; and in no event shall said Board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this Act.

Sec. 8. No provision of this Act shall be construed to authorize the giving or lending of the credit of the State to any county or district or to pledge the credit of the State in any manner whatever for the payment of any of the outstanding road indebtedness herein referred to of the counties or districts of the State. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and said counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas directly or indirectly or contingently, for the payment of any such obligations or that the State of Texas should assume the payment of said obligations, and this Act is not to be construed as obligating the State of Texas to the holders, of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the monies hereinabove provided for, but the provisions hereof are intended solely to compensate, repay and reimburse said counties and districts for the aid and assistance they have given to the State in furnishing, advancing and contributing money for building and constructing State Highways.

Sec. 9. If succeeding Legislatures shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, then whenever the eligible obligations shall have been fully paid as herein provided, as, to, or for any county or defined road district according to the provisions of this Act, then

and in that event, the title and possession of all roads, roadbeds, bridges and culverts, in such county or defined road district which are included in the system of designated State Highways, shall automatically vest in fee simple in the State of Texas, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right-of-way, or any part thereof, pertaining to a State Highway has been abandoned because of the abandonment of such road for all public purposes, and such right-of-way, or any part thereof, was donated by the owner of the land for right-of-way purposes, then and in that event the title to the said right-of-way shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State Highway, and if the Commission shall change or abandon any State Highway in any county, the commissioners' court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission.

Sec. 10. If any Section, sub-section, paragraph, sentence, clause, or provision of this Act, shall for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such Section, sub-section, paragraph, sentence, clause, or provision to any other person or situation, but this Act shall be construed and enforced as if such invalid provisions had not been contained therein.

Sec. 11. This Act shall be cumulative of all other valid laws on the subject, but in the event of a conflict between any provision of this Act and any other Act, either general or special, the provisions of this Act shall prevail.

Sec. 12. The fact that the present law governing the subject matter of this Act is inadequate creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in both Houses be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Senator Shivers moved that the report be adopted.

Question—Shall the motion to adopt the report prevail?

At Ease

On motion of Senator Weinert, the Senate agreed to stand at ease subject to the call of the President.

After standing at ease for one hour, the Senate was called to order by the President.

The Senate resumed consideration of the report of the Conference Committee on H. B. No. 238 (the road bond assumption bill); with motion by Senator Shivers to adopt the report pending.

Senator Van Zandt submitted the following motion in writing:

I move: (1) That the free conference report on H. B. No. 238 be rejected and that a new Conference Committee be appointed to adjust the differences between the House and Senate.

(2) That the newly appointed Committee be instructed:

(a) To re-write the bond assumption law on eligible bonds the same as now in the law.

(b) To allocate the surplus of the one cent (1c) gasoline tax the same as in the law now.

VAN ZANDT.

Senator Metcalfe offered the following amendment to the motion of Senator Van Zandt:

Amend Van Zandt motion by striking out all of the second portion and substituting in lieu thereof the following:

"(h) On September 1st of each year, after the Board has paid off and discharged all eligible obligations maturing during the preceding fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon, out of the County and District Highway Fund, any surplus remaining in said Fund over and above Three Million (\$3,000,000.00) Dollars, or so much thereof as the Board may consider necessary, which shall be carried forward as working capital or as a revolving fund, shall be transferred by the State Treasurer to the State Highway Fund. One-half of the funds so transferred shall be used by the State Highway Department on the regularly styled and designated 'State Highway System' and the remaining one-half shall be used in the construction of

farm/ranch-to-market roads and such funds so transferred to the State Highway Fund are hereby appropriated to the State Highway Department for such purpose. The State Highway Commission is hereby vested with the authority to designate and construct farm/ranch-to-market roads with the distinct provision that all road mileage that is designated and constructed as farm/ranch-to-market roads with the funds provided herein shall be road mileage that was not being maintained by the State Highway Department on January 2, 1941; and provided further that the farm/ranch-to-market roads constructed under these provisions shall be known as the farm/ranch road system of Texas and all roads on this system shall, at all times after construction, be maintained by the State Highway Department out of the funds provided herein for farm/ranch-to-market roads."

Senator Brownlee moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

## Yeas—20

Aikin	Moffett
Brownlee	Moore
Chadick	Ramsey
Cotten	Shivers
Fain	Smith
Graves	Spears
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lovelady	York

## Nays—10

Beck	Mauritz
Formby	Metcalfe
Hazlewood	Stone
Lemens	Sulak
Martin	Winfield

Absent—Excused

Hill

Senator Vick offered the following amendment to the motion of Senator Van Zandt.

Amend Division (2) of paragraph (a), of the Van Zandt amendment by striking out the words: "as now in the law" and insert in lieu thereof the following: "as the conference report provides" but leaving out the "military highway provision."

Senator Brownlee moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

## Yeas—21

Aikin	Moffett
Brownlee	Moore
Chadick	Ramsey
Cotten	Shivers
Fain	Spears
Formby	Stone
Graves	Sulak
Isbell	Van Zandt
Kelley	Weinert
Lanning	York
Lovelady	

## Nays—8

Beck	Mauritz
Hazlewood	Metcalfe
Lemens	Vick
Martin	Winfield

Absent

Smith

Absent—Excused

Hill

Question recurred—Shall the motion of Senator Van Zandt prevail?

Senator Van Zandt called for a division of the question.

Senator Brownlee moved to table paragraph (a) of Section (2) of the motion.

Yeas and nays were demanded, and the vote on the motion to table was announced, yeas 15, nays 15.

The President voted "yea," and the motion to table paragraph (a) of Section (2) of the motion prevailed by the following vote:

## Yeas—16

Mr. President	Moffett
Brownlee	Moore
Fain	Ramsey
Graves	Shivers
Hazlewood	Spears
Kelley	Stone
Lemens	Sulak
Martin	York

## Nays—15

Aikin	Mauritz
Beck	Metcalfe
Chadick	Smith
Cotten	Van Zandt
Formby	Vick
Isbell	Weinert
Lanning	Winfield
Lovelady	

## Absent—Excused

Hill

Senator Shivers moved to table paragraph (b) of Section (2) of the motion.

Yeas and nays were demanded, and the motion to table paragraph (b) of Section (2) of the motion prevailed by the following vote:

## Yeas—19

Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Hazlewood	Spears
Kelley	Stone
Lemens	Sulak
Martin	Vick
Mauritz	Winfield
Metcalfe	York

## Nays—11

Aikin	Lanning
Chadick	Lovelady
Cotten	Moffett
Formby	Van Zandt
Isbell	Weinert

## Absent—Excused

Hill

Senator Shivers moved to table Section (1) of the motion of Senator Van Zandt, said Section providing that the report be rejected and a new Conference Committee appointed to adjust the differences between the two Houses on the bill.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

## Yeas—14

Brownlee	Ramsey
Fain	Shivers
Graves	Spears
Hazlewood	Stone
Kelley	Sulak
Lemens	Winfield
Moore	York

## Nays—16

Aikin	Martin
Beck	Mauritz
Chadick	Metcalfe
Cotten	Moffett
Formby	Smith
Isbell	Van Zandt
Lanning	Vick
Lovelady	Weinert

## Absent—Excused

Hill

Section (1) of the motion of Senator Van Zandt was rejected by the following vote:

## Yeas—15

Aikin	Mauritz
Beck	Metcalfe
Chadick	Moffett
Cotten	Smith
Formby	Van Zandt
Isbell	Vick
Lanning	Weinert
Lovelady	

## Nays—15

Brownlee	Ramsey
Fain	Shivers
Graves	Spears
Hazlewood	Stone
Kelley	Sulak
Lemens	Winfield
Martin	York
Moore	

## Absent—Excused

Hill

Senator Lovelady raised a point of order against further consideration of the report on the ground that it recommends the passage of a bill containing matter not included in the bill as passed by either the House or Senate.

The President overruled the point of order and stated that inasmuch as the bill as passed by the Senate was a complete substitute for the House bill, the Conference Committee had authority to recommend the passage of a bill containing any matter germane to the original purposes of the bill.

Senator Sulak moved to reconsider the vote by which Section (1) of the motion of Senator Van Zandt was rejected.

The motion to reconsider prevailed by the following vote:

## Yeas—16

Aikin	Mauritz
Beck	Metcalfe
Chadick	Moffett
Cotten	Smith
Formby	Sulak
Isbell	Van Zandt
Lanning	Vick
Lovelady	Weinert

## Nays—14

Brownlee	Hazlewood
Fain	Kelley
Graves	Lemens

Martin	Spears
Moore	Stone
Ramsey	Winfield
Shivers	York

Absent—Excused

Hill

Question—Shall Section (1) of the motion of Senator Van Zandt, said Section providing for referring the differences between the two Houses on the the bill to a new Conference Committee, prevail?

The question was determined in the affirmative by the following vote:

Yeas—17

Aikin	Mauritz
Beck	Metcalfe
Chadick	Moffett
Cotten	Smith
Formby	Sulak
Isbell	Van Zandt
Lanning	Vick
Lovelady	Weinert
Martin	

Nays—13

Brownlee	Ramsey
Fain	Shivers
Graves	Spears
Hazlewood	Stone
Kelley	Winfield
Lemens	York
Moore	

Absent—Excused

Hill

The President, accordingly, appointed Senators Shivers, Van Zandt, Metcalfe, Ramsey and Kelley as conferees on the part of the Senate to consider further the differences between the two Houses on the bill.

#### Senate Resolution 186

Senator Aikin by unanimous consent, offered the following resolution at this time:

Whereas, Honorable Tom DeBerry, former distinguished member of the Senate and now a member of the State Board of Control, is within the Hall; and

Whereas, We are delighted always to welcome him here; now, therefore, be it

Resolved, That Senator DeBerry be extended the privilege of the floor for this evening.

The resolution was read, and by unanimous consent, it was considered and adopted at this time.

#### Senate Resolution 187

Senator Hazlewood offered the following resolution:

Whereas, There has been passed by the State Senate, Senate Resolution No. 176; and

Whereas, Said resolution provided for the appointment of a committee of five (5) Senators to sit with the Board of Control in the investigation concerning superintendents of several eleemosynary institutions; and

Whereas, It may be necessary for said committee to make several trips in connection with the discharge of its duty, thereby incurring considerable expense; therefore, be it

Resolved by the Senate of the Forty-seventh Legislature that the members of said committee be allowed the actual and necessary expenses while engaged in the discharge of their duty as set forth in Senate Resolution No. 176, and that the same be paid out of the contingent fund of the Forty-seventh Legislature.

The resolution was read, and by unanimous consent, it was adopted.

#### Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 301, Suspending Joint Rules in order that Senate may take up and consider H. B. No. 1101 and H. B. No. 1013.

The House has passed notwithstanding the veto of the Governor by a vote of 115 yeas, 12 nays:

S. B. No. 187, A bill to be entitled "An Act to facilitate the cooperation of this State with other units of government, determining the membership of the Board, and establishing the Texas Commission on Interstate Cooperation; describing the functions and operations of said Commission; providing for the establishment of



delegations and committees; providing for reports; providing titles for the committees and the Commission; declaring the Council of State Governments a joint governmental agency of this State and of the other states; stating the intent of a fund to be appropriated by the Legislature; providing a saving clause; and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

**Report of Conference Committee on  
House Bill No. 711**

Senator Kelley submitted the following report:

Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of  
the Senate;

Hon. Homer L. Leonard, Speaker of  
the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the two Houses on H. B. No. 711, have met and beg leave to recommend that H. B. No. 711 be passed in the form hereto attached.

Respectfully submitted,

CELAYA,  
VALE,  
LYLE,  
LEYENDECKER,  
HARTZOG,

On the part of the House;

KELLEY,  
STONE,  
FORMBY,  
BROWNLEE,  
MAURITZ,

On the part of the Senate.

A bill to be entitled,  
"An Act providing for a more adequate and equitable salary and increasing the amount for office and travel expenditures for county superintendents of public instruction in all those counties of Texas coming within the brackets and population figures herein; specifically in all those counties having not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties having not less than twenty thousand five hundred and sixty (20,560) and not more than twenty thousand, five hundred and seventy (20,570); and in all those counties having not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty

(20,250); and in all those counties having not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties having not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census; modifying all laws or parts of laws in conflict herewith; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. From and after the passage of this Act in all counties of the State of Texas which have a population of not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and sixty (20,560) and not more than twenty thousand five hundred and seventy (20,570); and in all those counties having not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315) and in all those counties of the State of Texas having a population of not less than thirteen thousand, two hundred and thirty and not more than thirteen thousand, two hundred and thirty-five, according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be Thirty-six Hundred (\$3,600.00) Dollars per annum; to be paid in accordance with and in the manner as provided by the General Law governing the maintenance of the office of county superintendent, as provided in Article 2700, Revised Civil Statutes, 1925.

Sec. 2. From and after the passage of this Act in all counties of the State of Texas which have a population of not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and seventy (20,570); and in all those

counties of the State of Texas which have population of not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all those counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315) and in all those counties of the State of Texas which have a population of not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235); according to the last preceding Federal Census, the amount which shall be allowed for office and travel expenditures for the county superintendent of public instruction shall be Six Hundred (\$600.00) Dollars per annum.

Sec. 3. All laws and parts of laws, whether here referred to by Article, Title, or number, or not, General or Special, in conflict herewith are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the General Law on the subject and where not otherwise modified hereby, such general laws are made applicable.

Sec. 4. The fact that the county superintendent of public instruction in the counties to which this Act is made applicable has multiplied duties, teachers to supervise, and districts in distant sections which require much travel in the full performance of his duties, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule that bills be read on three several days, and the said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Senator Kelley moved that the report be adopted.

Yeas and nays were demanded, and the motion to adopt the report prevailed by the following vote:

Yeas—17

Aikin	Graves
Cotten	Hazlewood
Fain	Kelley
Formby	Lanning

Martin	Spears
Mauritz	Stone
Metcalf	Winfield
Moore	York
Smith	

Nays—7

Chadick	Moffett
Isbell	Sulak
Lemens	Vick
Lovelady	

Present—Not Voting

Weinert

Absent

Beck	Shivers
Brownlee	Van Zandt
Ramsey	

Absent—Excused

Hill

#### Senate Resolution 188

Senator Lemens offered the following resolution:

Whereas, S. B. No. 187, which establishes the Texas Commission of Interstate Cooperation has passed both houses of the Legislature; and

Whereas, Said S. B. No. 187, makes no provision for the payment of the expenses of the committee; and

Whereas, Unless it is possible for the chairman of said committee to attend the meetings of the Council of State Governments, the provisions of the bill will be rendered practically useless; now, therefore, be it

Resolved by the Senate of the State of Texas, That the expenses of the Chairman of the Interstate Cooperation Committee, shall be borne by and paid out of the appropriations for mileage and per diem and contingent expenses of the Forty-seventh Legislature, upon sworn account of the person entitled to such pay, when approved by the chairman of said committee, and sufficient money is hereby appropriated out of said fund to meet the payment of such per diem and expenses of the committee.

The President laid the resolution before the Senate for consideration at this time.

The resolution was read and was adopted.

**Senate Resolution 189**

Senator Brownlee offered the following resolution:

Whereas, Miss Cornelia Nunn, branch manager of the Western Union Telegraph Company at the Capitol Station, has been serving the legislative bodies and State offices for a number of years; and

Whereas, Miss Nunn has applied for a rest. "Just a bit tired," she smilingly explained; and

Whereas, She will not be here at the adjournment of the Forty-seventh Legislature; and

Whereas, It may be said of her that she belongs to that group of fine people who serve quietly, humbly, nobly and well; now, therefore, be it

Resolved, That the Senate of Texas has appreciated the services Miss Nunn has rendered and trusts that the well-earned rest will restore her good health and that she will soon be back to continue the same faithful and efficient service she has given at all times.

The resolution was read and was adopted unanimously.

**Appointment of Special Committees**

The President announced the appointment of the following committee in compliance with the provisions of S. C. R. No. 66, Relating to construction of a State office building: Senators Brownlee, Moore and Weinert.

The President announced the appointment of the following Advisory Committee on the part of the Senate, pursuant to the provisions of S. B. No. 402 (the eleemosynary appropriation bill): Senators Aikin, Isbell and Weinert.

The President announced the appointment of the following committee on the part of the Senate pursuant to H. B. No. 284 (the Rural Aid Bill): Senators Van Zandt, Isbell, Lovelady, Kelley and Metcalfe.

**Report of Conference Committee on House Bill 682**

Senator Aikin submitted the following report of the Conference Committee on H. B. No. 682:

Austin, Texas,

July 2, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: We, your Conference Commit-

tee appointed to adjust the differences between the two Houses on H. B. No. 682, have met and beg leave to recommend that H. B. No. 682 be passed in the form hereto attached.

Respectfully submitted,

AIKIN,  
KELLEY,  
METCALFE,  
BECK,  
VICK,

On the part of the Senate;

CELAYA,  
AVANT,  
MOORE,  
PRICE,  
THORNTON,

On the part of the House.

H. B. No. 682, A bill to be entitled "An Act providing that it shall be unlawful for any person to take, catch, ensnare, or trap any fish by any means whatsoever in any waters of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker, or superintendent of said park; providing a penalty; and authorizing any peace officer to arrest without warrant for a violation of any provision of this Act; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. Whoever shall take, catch, ensnare, or trap any fish by any means whatsoever in any waters which are within the confines of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker, or superintendent of said public park, shall be fined not exceeding One Hundred (\$100) Dollars. Any peace officer is authorized to arrest without warrant any person found committing a violation of any provision of this Article.

Sec. 2. The fact that the provisions of this Act are necessary to protect the general public and to protect the property of the State Parks Board by empowering and authorizing peace officers to arrest without warrant for the violation of a rule and regulation of the State Parks Board creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Aikin, the report was adopted.

#### Record of Votes

Senators Lemens and Vick asked to be recorded as voting "nay" on the report.

#### Second Report of Conference Committee on House Bill 238

Senator Shivers, at this time, submitted the report of the Conference Committee to which the differences between the two Houses on H. B. No. 238 were recommitted for further consideration.

[Note.—The report submitted at this time is identical with the report previously submitted by the Conference Committee on the bill (H. B. No. 238) except for the deletion from the original report of the paragraph in Section 6, Subsection aa, relating to the construction of a military highway. See page 2482-2491.]

Senator Aikin moved that the report be recommitted to the Conference Committee with instructions to delete the "Liberty County amendment."

Senator Moore moved to table the motion of Senator Aikin.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

#### Yeas—17

Beck	Metcalf
Brownlee	Moore
Fain	Ramsey
Formby	Shivers
Hazlewood	Smith
Kelley	Stone
Lemens	Winfield
Lovelady	York
Martin	

#### Nays—13

Aikin	Moffett
Chadick	Spears
Cotten	Sulak
Graves	Van Zandt
Isbell	Vick
Lanning	Weinert
Mauritz	

#### Absent—Excused

Hill

Senator Moore moved the previous question on the adoption of the report, and the motion was duly seconded.

The main question was ordered by the following vote:

#### Yeas—18

Beck	Metcalf
Brownlee	Moore
Fain	Ramsey
Formby	Shivers
Hazlewood	Smith
Kelley	Stone
Lovelady	Weinert
Martin	Winfield
Mauritz	York

#### Nays—10

Aikin	Moffett
Chadick	Spears
Graves	Sulak
Isbell	Van Zandt
Lanning	Vick

#### Absent—Excused

Hill

#### Paired

Senator Lemens (present), who would vote "yea" with Senator Cotten (absent), who would vote "nay."

The report then was adopted by the following vote:

#### Yeas—20

Beck	Moffett
Brownlee	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Kelley	Sulak
Martin	Vick
Mauritz	Winfield
Metcalf	York

#### Nays—8

Aikin	Lovelady
Chadick	Spears
Isbell	Van Zandt
Lanning	Weinert

#### Absent—Excused

Hill

#### Paired

Senator Lemens (present), who would vote "yea" with Senator Cotten (absent), who would vote "nay."

#### Committees to Notify the Governor and the House

Senator Cotten moved that a committee to notify the Governor, and a committee to notify the House, that the Senate has completed its labors and is ready to adjourn sine die be appointed by the President.

The motion prevailed.

Accordingly, the President appointed the following committees:

To notify the Governor: Senators Beck, Martin, Hazlewood, Formby and Smith.

To notify the House: Senators Ramsey, Lanning, Moffett, Lemens and Mauritz.

#### Message from the House

A Clerk from the House was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
July 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to accept the Conference Committee report on H. B. No. 238 by tabling the motion to adopt the Conference Committee report by the following vote: 84 ayes and 29 nays.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Signing of Bills and Resolutions

The President signed in the presence of the Senate after their captions had been read the following enrolled bills and resolutions:

S. B. No. 119, A bill to be entitled "An Act amending Article 1645, Revised Civil Statutes of Texas, 1925, as amended by Acts 1927, Fortieth Legislature, First Called Session, page 104, Chapter 35, Section 1; as amended by Acts 1929, Forty-first Legislature, First Called Session, page 62, Chapter 28, Section 1; as amended by Acts 1931, Forty-second Legislature, Second Called Session, page 29, Chapter 15, Section 1; as amended by Acts 1937, Forty-fifth Legislature, First Called Session, page 1826, Chapter 45, Section 3; as amended by Acts 1939, Forty-sixth Legislature, Special Laws, page 595, Section 1; and amending Article 1646 of the Revised Civil Statutes of Texas 1925; as amended by Acts 1929, Forty-first Legislature, page 687, Chapter 308, Section 1; providing for the appointment of county auditors in certain counties; providing salaries for such county auditors within maximum and minimum limitations, and the method of fixing and payment of

same; providing order fixing salary to be recorded in the minutes of the district court of the county and to be certified to commissioners' court for recording in its minutes; providing for the repeal of all laws or parts of laws in conflict herewith with certain exceptions; providing for a saving clause in the event any portion of this Act shall be held unconstitutional; and declaring an emergency."

H. B. No. 11, A bill to be entitled "An Act to amend Article 2746, Revised Civil Statutes of Texas, 1925, relative to payment of persons holding elections of local school trustees; and declaring an emergency."

H. B. No. 86, A bill to be entitled "An Act to amend Chapter 482, Acts of the Forty-fourth Legislature, Third Called Session, 1936, page 1993, as amended by Acts of the Forty-fifth Legislature, 1937, Chapter 67, page 121, and as amended by Acts of the Forty-sixth Legislature, 1939, page 436, so as to make the Texas Unemployment Compensation Law conform to amendments made by the Congress of the United States in 1939 to the Federal Social Security Act, providing additional definitions of the term 'employment,' providing for certain exceptions so that the term 'employment' will not include services performed in any calendar quarter by one in the employ of any organization exempt from the payment of income tax under Section 101 of the Internal Revenue Code, providing that the term 'employment' shall not include services performed by an individual as an insurance agent or as an insurance solicitor if such service is performed for remuneration, solely by the way of commissions, providing that, if any portion of this Act shall be declared unconstitutional and invalid, the remainder shall not be affected thereby, and, further; declaring an emergency."

H. B. No. 166, A bill to be entitled "An Act to amend Articles 4557, 4558, 4559, 4561, 4562, Title 71, of the Revised Civil Statutes of Texas, 1925, requiring all persons desiring to practice optometry in Texas to pass an examination; repealing all laws or parts of laws in conflict with this Act; declaring that the remainder of the Act shall not be affected by the unconstitutionality or invalidity of any part thereof; and declaring an emergency."

H. B. No. 1011, A bill to be entitled "An Act appropriating the sum of

Three Hundred Thousand (\$300,000.00) Dollars out of any funds in the State Treasury, not otherwise appropriated, annually, for the purpose of providing permanent funds or revenue for the 'Firemen's Relief and Retirement Fund' created by H. B. No. 258, Chapter 125, page 229, of the General Laws of the Regular Session of the Forty-fifth Legislature, approved April 9, 1937; providing for the disbursement thereof; and declaring an emergency."

H. B. No. 1095, A bill to be entitled "An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency."

H. B. No. 1100, A bill to be entitled "An Act making it unlawful to take, kill, pursue, or attempt to take, kill, or pursue or otherwise molest any deer in Shelby County until November 16, 1946; providing a suitable penalty; repealing conflicting laws; and declaring an emergency."

H. C. R. No. 188, Memorializing Congress to designate the second Sunday in May as Mother's and Father's Day.

H. C. R. No. 274, Appropriating Fifteen Hundred (\$1,500.00) Dollars from Contingent Expense Funds for use of Advisory Legislative Committee authorized by Rural Aid Bill.

H. C. R. No. 288, Authorizing the Senate to consider H. B. No. 1104 today.

H. C. R. No. 289, Authorizing the House to consider S. B. No. 489 today.

H. C. R. No. 294, Authorizing the House to consider S. J. R. No. 20 today.

H. C. R. No. 295, Authorizing the Senate to consider H. B. No. 1095 today.

S. C. R. No. 87, Authorizing correction in H. B. No. 831.

S. J. R. No. 20, Proposing an amendment to the Constitution so as to permit the Accounting Officers of this State to draw and pay warrants for salaries to officers of the United States Army or Navy who are assigned to duties in State institutions of higher education.

S. B. No. 38, A bill to be entitled "An Act to provide further safeguards for public educational funds; and declaring an emergency."

H. C. R. No. 297, Authorizing the Enrolling Clerk of the House to amend the caption of H. B. No. 1011.

H. C. R. No. 299, Authorizing the Enrolling Clerk of the House to delete "Section 16a" from the Conference Committee report on H. B. No. 796.

H. B. No. 796, A bill to be entitled "An Act further regulating the sale, transportation, storage, manufacturing, etc., of alcoholic beverages in this State under the Texas Liquor Control Act by amending portions of repealing portions of and adding new Sections to Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, and by H. B. No. 5, etc.; providing for regulation of marketing practices; establishing penalties; providing savings clauses; and declaring an emergency."

H. B. No. 1067, A bill to be entitled "An Act amending Section 1 of H. B. No. 186, Regular Session of the Forty-seventh Legislature, fixing an open season for mourning doves and whitewinged doves; etc.; and declaring an emergency."

H. B. No. 682, A bill to be entitled "An Act providing that it shall be unlawful for any person to take, catch, ensnare, or trap any fish by any means whatsoever in any waters of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker, etc.; and declaring an emergency."

H. B. No. 711, A bill to be entitled "An Act providing for a more adequate and equitable salary and increasing the amount of office and travel expenditures for county superintendents of public instruction in all those counties of Texas coming within the brackets and population figures herein; specifically in all those counties having not less than one hundred six thousand (106,000) and not more than one hundred seven thousand (107,000); and in all those counties having not less than ninety-two thousand (92,000) and not more than ninety-three thousand (93,000); and in all those counties having not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties having not less than twenty thousand, five hun-

dred sixty (20,560) and not more than twenty thousand, five hundred seventy (20,570); and in all those counties having not less than twenty thousand, two hundred thirty (20,230) and not more than twenty thousand, two hundred fifty (20,250); and in all those counties having not less than thirteen thousand, two hundred twenty (13,220) and not more than thirteen thousand two hundred forty (13,240) according to the last preceding Federal Census; modifying all laws or parts of laws in conflict herewith; and declaring an emergency."

#### Governor Notified

The Committee appointed to notify the Governor that the Senate is ready to adjourn sine die appeared at the bar of the Senate, and Senator Beck, for the Committee, announced the duty assigned it had been performed, and presented the following message from the Governor, which was read to the Senate:

July 3, 1941.

To the Members of the Forty-seventh Legislature:

In the closing hours of the Session of the Forty-seventh Legislature I feel we are able to say that this Legislature has rendered some very definite service to the citizens of this State.

Ever since 1935 efforts of previous Legislatures have been directed toward solving the problem of the regulation of trucks in this State. I think this Legislature has worked out a satisfactory solution.

This Legislature has done what should have been done several years ago by providing funds to take the insane out of our jails and to better care for the needs of all of our eleemosynary institutions.

This Legislature has recognized the fact that our institutions of higher learning are now operating on about the same schedule of cost which they did in 1930, but caring for probably more than thirty per cent increase in enrollment and this Legislature has provided funds which I hope will be adequate to prevent lowering of the standard of instruction in these institutions.

This Legislature recognized the fact that Texas is far below the average state in support of its rural schools, and it has provided more adequate support. Certainly this will meet with the approval of everybody.

This Legislature has recognized and written into the law of this land a definite policy which says that the State stands committed to the problem that every citizen in Texas shall have the right to work at any lawful vocation and if any individual or any group of individuals seek by the use of force or violence to prevent them from doing so they shall be guilty of a felony. To my way of thinking this is sound American doctrine and it is the kind of law that should be passed by every State in the Union and by the National Government. Certainly the right to work is a fundamental right and it should be protected with all the power of State and National Government.

After many years of failure the Forty-seventh Legislature has recognized the demand of the people of Texas when they adopted the Social Security amendments and this Legislature has provided for meeting in full the obligations of teacher retirement, aid for dependent children, aid for the indigent blind, and with Federal funds, has made available \$42,000,000 annually for old-age pensions. This was the Number One Problem and I think the action of the Legislature in recognizing this Number One Problem and meeting this problem stands out as the major accomplishment of the Forty-seventh Legislature. This Legislature has also submitted to the people an amendment which when adopted will put an end for all time to deficit spending by the State Government. This is another most essential and constructive piece of legislation which every sound-thinking person will appreciate.

Many other pieces of constructive legislation have also been enacted by this legislature which will be highly beneficial to our citizens and greatly appreciated by them.

Throughout this Session of the Legislature I have fought uncompromisingly for things which I believe should be accomplished. There are a number of matters which I recommended to the Legislature which did not receive legislative approval, but I recognize that the authority and responsibility of the Chief Executive is the authority to recommend legislation and his responsibility is met when he makes these recommendations, and it is the responsibility of the Legislature to determine whether or not the recommendations are sound.



May I, as this Session closes, say to all of you that we have had our battles; I have fought for what I believed was right; I concede to you who have differed with me that you, too, were fighting for what you believed was right. Let us forget any ill-tempered things we may have said about each other. You, as members of the Forty-seventh Legislature, have my very best wishes and my good will. I have forgotten unpleasant situations which have developed and in the years to come I shall remember you as my personal friends.

In our Democratic form of Government, where there exists three separate and distinct branches, it follows that if each is to function separately and properly there are bound to be differences of opinion. Some differences of opinion between the Executive and Legislative branches during this Session have been apparent, but such differences have been settled in the Democratic way. As far as I am concerned, I hold no personal grudges. I am proud of the accomplishments made during this administration, and I thank your branch for the part you played in making these accomplishments possible.

We are now separating, but where each of us goes there is an important role to be played. Our State and Nation face a most crucial test. We should all hold the welfare of our State and Nation paramount, and we can accomplish much by practicing the spirit of unity and laying aside as much as possible all selfish motives. We have a great Democracy to protect and preserve, and it will require every ounce of energy and ability that each one of us can contribute. I wish each and every one of you good health and unbounded success in all your undertakings and assure you that in the new post of duty which I shall occupy that I shall enthusiastically endeavor to serve you and the people you and I represent to the very best of my ability.

W. LEE O'DANIEL,  
Governor of Texas.

#### House Notified

The Committee appointed to notify the House that the Senate has completed its labors and is now ready to adjourn sine die appeared at the bar of the Senate, and Senator Ramsey, for the Committee announced the duty assigned it had been performed.

#### Senate Notified

A committee from the House appeared at the bar of the Senate, and Mr. McMurry, of the Committee, notified the Senate that the House has completed its labors and is now ready to adjourn sine die.

#### Adjournment Sine Die

At 6:00 o'clock p. m., the President announced the hour fixed by concurrent action of the House and Senate for sine die adjournment of the Regular Session of the Forty-seventh Legislature had arrived.

Senator Moore moved that the Senate adjourn sine die.

The motion prevailed, and the Senate, accordingly, at 6:00 o'clock p. m., adjourned sine die.

#### APPENDIX

#### Communication from Joe T. Steadham

Austin, Texas,  
July 3, 1941.

To the Hon. Lieutenant Governor and the Members of the Senate of the Forty-seventh Legislature.

Honorable Sirs: As the Forty-seventh session of the Texas Legislature comes to a close and when the curtain is about to fall upon one of the most important sessions of the Texas Legislature, permit us in our humble manner to express our sincere appreciation of your patience for the past 170 days when we were working among you on behalf of legislation affecting the working classes.

We further appreciate your tolerant disposition which has been exhibited to the fullest extent and we appreciate the fact that tolerance is the very foundation of democracy. We hope we have not been boresome during the session of the Legislature.

On behalf of the Joint Railway Labor Legislative Board of Texas, we wish you a safe landing at your home, and we further trust that we may have your good will to the same extent that you have ours.

Respectfully submitted,

JOE T. STEADHAM,  
Chairman, Joint Legislative  
Labor Board.

**In Memory of**  
**Hon. Roy Walker**

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Senator Brownlee offered the following resolution:

(Senate Resolution 182)

Whereas, On the 30th day of June, 1941, the Almighty in His infinite wisdom, called from our midst, Mr. Roy Walker of Lampasas, Texas; and

Whereas, Mr. Walker was a prominent and well beloved citizen of Central Texas; and

Whereas, Roy Walker was one of the best known Central Texas lawyers, and was a former Mayor of Lampasas, who served his town and the community surrounding it well and faithfully; and

Whereas, He was always a staunch Democrat, and was well known to all the Members of the Legislature; and

Whereas, In the passing of this lovable and distinguished gentleman, the State and his community have suffered the loss of a fine character, a faithful public servant, and a true, honorable, and loyal citizen and friend; now, therefore, be it

Resolved by the Senate of Texas, That the Members thereof deeply regret the passing of this fine gentleman, and that they extend their sincere sympathy to his family, and that a copy of this resolution be spread upon the pages of the Senate Journal for today, and that the Secretary of the Senate be directed to send a copy of this resolution to the surviving members of his family.

**BROWNLEE,  
AIKIN.**

The resolution was read and was adopted unanimously.